



EUROPEAN COMMISSION

Brussels, 12.12.2023
C(2023) 8901 final

SENSITIVE (*): *COMP Operations*

Subject: State Aid SA.110430 (2023/N) – Spain
TCTF: Modifications to State aid case SA.102771 “TCF: Umbrella Scheme”
(as amended by SA.104884 and SA.103941)

Excellency,

1. PROCEDURE

- (1) By electronic notification of 29 November 2023, Spain notified amendments (the ‘notified amendments’) to the following existing aid scheme (the ‘existing aid scheme’), which the Commission approved under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the ‘Temporary Crisis and Transition Framework’) ⁽¹⁾ by the decision in case SA.102771 (2022/N) “*TCF: Umbrella Scheme*” ⁽²⁾ (the ‘initial decision’), and for which the Commission approved amendments in cases SA.103941 (2022/N) “*TCF: Modifications to SA.102771, SA.102711, SA.102645, SA.102616 and SA.102615*” (the ‘first amending decision’) ⁽³⁾ and SA.104884 (2022/N) “*TCF:*

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⁽¹⁾ Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3), as amended by Commission Communication C(2023)8045 (OJ C 1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj>).

⁽²⁾ Commission Decision C(2022) 4064 final of 10 June 2023 in case SA.102771 (OJ C 242, 24.06.2022, p. 11).

⁽³⁾ Commission decision C(2022) 6051 final of 18 August 2022 in case SA.103941 (OJ C 348, 09.09.2022, p. 9).

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Modifications to SA.102771 (as amended by SA.103941)”⁽⁴⁾ (the ‘second amending decision’).

- (2) Spain 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⁽⁵⁾ 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 remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia.
- (4) Spain proposes to amend the existing aid scheme for measures under section 2.1 of the Temporary Crisis and Transition Framework as follows:
- (a) to prolong the duration from 31 December 2023 to 30 June 2024;
 - (b) to increase the overall maximum aid amount per undertaking that may be granted from EUR 2 million to EUR 2.25 million, from EUR 250 000 to EUR 280 000 per undertaking active in the primary production of agricultural products and from EUR 300 000 to EUR 335 000 per undertaking active in the fishery and aquaculture sectors; and
 - (c) to increase the estimated provisional budget for aid under this section of the Temporary Crisis and Transition Framework from EUR 2 billion to EUR 2.5 billion⁽⁶⁾.
- (5) Apart from the notified amendments, Spain confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of this scheme remain unaltered.
- (6) The legal bases for the notified amendments are (i) the Agreement of the National Government Commission for Economic Affairs of 25 April 2022 on the National Temporary Framework for State aid to support the economy following the aggression against Ukraine by Russia; and (ii) the Agreement of the National Government Commission for Economic Affairs of 28 July 2022⁽⁷⁾.

⁽⁴⁾ Commission Decision C(2022) 9443 final of 12 December 2022 in case SA.104884 (OJ C 031, 27.01.2023, p. 5).

⁽⁵⁾ Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

⁽⁶⁾ The increase in estimated provisional budget increase for aid under section 2.1 from EUR 2 billion to EUR 2.5 billion results in an increase of the overall estimated provisional budget from EUR 2.5 billion to EUR 3 billion.

⁽⁷⁾ Both agreements specify that aid may be granted under the notified amendments as from the notification of the Commission’s decision approving the notified amendments. Moreover, the Agreements are complemented by the working document of 27 November 2023 reflecting the amendments to the umbrella scheme. The consolidated version of the umbrella scheme will be published on the website of the Spanish Ministry of Economy, Commerce and Business.

- (7) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission's decision approving the notified amendments.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (8) By notifying the amendments before putting them into effect, the Spanish 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 be liable to affect trade between Member States.
- (10) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (47) to (52) of the initial decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decisions and concludes that the existing aid scheme, as amended, constitute State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (11) The existing aid scheme is compatible with the internal market pursuant to Article 107(3), point (b) TFEU, since they meet the conditions of section 1 and section 2.1 of the Temporary Crisis and Transition Framework for the reasons set out in recitals (53) to (65) of the initial decision, in recitals (27) to (29) of the first amending decision and in recitals (14) to (21) of the second amending decision. The Commission therefore refers to the respective assessment of the initial decisions.
- (12) The notified amendments do not affect the conclusion that the existing aid scheme is compatible with the internal market pursuant to Article 107(3), point (b) TFEU. In particular, for aid granted under section 2.1 of the Temporary Crisis and Transition Framework:
- The aid under the existing aid scheme will be granted no later than 30 June 2024 (recital (4)(a)). The notified amendments thus comply with point 61(c) of the Temporary Crisis and Transition Framework.
 - The maximum aid amount per undertaking under the existing aid scheme will be increased to EUR 2.25 million, the maximum aid amount per undertaking active in the primary production of agricultural products will be increased to EUR 280 000, and the maximum aid amount per undertaking active in the fishery and aquaculture sectors to EUR 335 000 (recital (4)(b)). The notified amendments thus comply with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework.
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework, Spain will ensure, by relying on appropriate means,

such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 2.25 million is not exceeded per undertaking per Member State (recital (4)(b)). Where an undertaking is active in the sectors covered by point 62(a) of the Temporary Crisis and Transition Framework, the overall maximum amount of EUR 280 000 or EUR 335 000 is not exceeded per undertaking per Member State (recital (4)(b)). The measure therefore complies with point 63 of the Temporary Crisis and Transition Framework.

- The existing aid scheme will continue to be granted on the basis of a scheme with an estimated overall budget of EUR 3 billion of which EUR 2.5 billion will be used for aid under section 2.1 of the Temporary Crisis and Transition Framework (recital (4)(c)). The notified amendments therefore comply with point 61(b) of the Temporary Crisis and Transition Framework.
- (13) Apart from the notified amendments, Spain confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of this scheme remain unaltered.
- (14) The Commission therefore considers that the notified amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3), point (b) TFEU, since they meet all the relevant conditions of the Temporary Crisis and Transition 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 decisions.

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), point (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: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

