



EUROPEAN COMMISSION

Brussels, 09.11.2021
C(2021) 8154 final

SENSITIVE*: *COMP Operations*

**Subject: State Aid SA.100306 (2021/N) – The Netherlands
COVID-19: Extension of SA.61360 with increased budget (special
transport in the Netherlands)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 14 October 2021, the Netherlands notified amendments (the “notified amendments”) to State aid measure SA.61360 *COVID-19: New compensation scheme for special transport providers* (the “existing aid scheme”). The existing aid scheme had been approved by Commission Decision of 9 February 2021 (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

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¹ See Commission Decision of 9 February 2021, SA.61360 (2021/N) – The Netherlands: COVID-19: New compensation scheme for special transport providers, OJ C60, 19.2.2021, p. 10.

A prior aid scheme was approved by the Commission under Article 107(2)(b) TFEU and covered the period from 15 March 2020 until 30 June 2020: see Commission Decision of 29 June 2020, SA.57554 (2020/N) – The Netherlands: COVID-19: Compensation scheme special transport for special groups due to the COVID-19 outbreak, OJ C228, 10.7.2020, p. 5.

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) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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- (2) The Netherlands 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 1/1958³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) The Netherlands wishes to amend the existing aid scheme by extending the eligible period (originally from 1 July to 13 October 2020) to cover the period from 14 October 2020 to 30 September 2021 inclusively.
- (4) The Netherlands intends to increase the budget of the existing scheme by EUR 402.5 million. As a result, the total estimated budget of the existing aid scheme, as amended, is EUR 525 million.
- (5) Apart from the notified amendments, the Netherlands confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (6) The legal bases for the notified amendments are (1) Article 6 of the Act on the financial relationship between national, regional and local public authorities in the Netherlands (*Financiële-verhoudingswet*) and Article 108 in conjunction with Article 160 of the Municipality Act (*Gemeentewet*); and (2) the Circular on the continued payment for special transport and State aid II due to COVID-19 — extension (*Circulaire voor doorbetaling doelgroepenvervoer en staatssteun II vanwege COVID-19 – verlenging*).
- (7) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission’s approval of the notified amendments.

3. ASSESSMENT

3.1. Existence of State aid

- (8) 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.
- (9) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (37) to (42) 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 Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

3.2. Compatibility

- (10) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of section 2 and sections 3.1 and 3.12 of the Temporary Framework for the reasons set out in recitals (43) to (52) of the initial decision. The Commission therefore refers to the respective assessment of the initial decision.
- (11) The notified amendments do not affect that conclusion. In particular:
- Both the aid under Section 3.1 and Section 3.12 of the Temporary Framework will be granted no later than 31 December 2021. Therefore, the conditions set out in point 22(d) and point 87(a) of the Temporary Framework are met.
 - In addition, the aid under Section 3.12 of the Temporary Framework covers uncovered fixed costs (limited to wages and personnel costs) incurred during the period 14 October 2020 until 30 September 2021, including such costs incurred in part of that period. Therefore, the conditions set out in point 87(a) of the Temporary Framework are met.
 - As regards the modification to the budget (see recital (4)), the Commission concludes that this does not affect the outcome of the Commission's compatibility analysis in the initial decision. In particular, the aid under Section 3.1 of the Temporary Framework continues to comply with point 22(b) of the Temporary Framework, as aid is granted on the basis of a scheme with an estimated budget.
 - Under Section 3.1 of the Temporary Framework, the overall maximum aid amount(s) per undertaking⁴ (gross, i.e. before any deduction of tax or other charges) remains respected and limited to EUR 1 800 000. The measure therefore complies with point 22(a) of the Temporary Framework.
 - Under Section 3.12 of the Temporary Framework, the overall nominal value of the grants will not exceed EUR 10 million per undertaking (gross, i.e. before any deduction of tax or other charges). The measure therefore continues to comply with point 87(d) of the Temporary Framework.
- (12) Apart from the notified amendments, the Netherlands confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (13) 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)(b) TFEU, since they meet all 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 See paragraphs 22(a) and 23(a) of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, 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

