



EUROPEAN COMMISSION

Brussels, 30.7.2020
C(2020) 5347 final

PUBLIC VERSION

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**Subject: State Aid SA.58108 (2020/N) – France
COVID-19: Amendment to the scheme SA.57754 – “Modification du
dispositif d'activité partielle ad hoc”**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 20 July 2020, France notified a modification to the State aid scheme SA.57754 *Dispositif d'activité partielle ad hoc* (“the ad hoc short-term work scheme”), which was approved by the Commission by its decision of 29 June 2020¹ (“the initial decision”) in the context of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”)².
- (2) The ad hoc short-term work scheme offers wage compensation to employees occupied in certain sectors severely affected by the COVID-19 outbreak. The notified modification (“the measure”) includes an extension in the scope of the ad

¹ Commission Decision C(2020) 4512 final.

² Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 35, and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

Son Excellence Monsieur Jean-Yves le Drian
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hoc short-term work scheme, namely to certain sectors of the economy in the regions of Mayotte and Guyane, as well as a temporal extension for the aid granted. The measure was notified on the basis of article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”) and of the Temporary Framework.

- (3) 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 Article 3 of Regulation 1/1958,³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

2.1. Background and context of the measure

- (4) France considers that the COVID-19 outbreak has affected the real economy and put at risk the jobs of workers and employees of undertakings that have 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 redundancies⁴. Thus, France has taken measures in order to preserve employment and protect employees, who would have been laid off due to the COVID-19 outbreak. In addition, these measures aim at allowing undertakings to resume their activities immediately after the lockdown period.
- (5) Against this backdrop, France has decided to make use of a pre-existing short-term work scheme applicable to employers in the private sector, already in force in national legislation (as described in recital (12) of the initial decision, the “pre-existing short-term work scheme”). This scheme offered wage compensation amounting to 70% of the employee’s gross salary.
- (6) The initial decision approved of a modification to the pre-existing short-term work scheme, which included the reduction to the wage compensation amount from 70% to 60% of the employee’s gross salary for all sectors, while maintaining the percentage of 70% for certain sectors severely affected by the COVID-19 outbreak, as described in detail in recital (13) of the initial decision⁵.

2.2. Amendments to the ad hoc short-term work scheme

- (7) By the notification in question, France intends to modify the ad hoc short-term work scheme as follows:

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

⁴ The French authorities submit that in June 2020 the economic activity in the country was 12 % lower than the situation at the beginning of the year. In addition, since 1 March until 15 June 2020, the French authorities have received approximately 1.402.000 applications of employers asking to be included in the existing subsidy mechanism for short-term work, involving 13.5 million employees and reflecting 5.9 billion hours of unemployment.

⁵ In summary, the sectors caught by the initial decision are: i) catering and restauration, hotel industry and accommodation, tourism, passenger transport, arts, culture, sports; ii) upstream and downstream sectors linked with those above, provided that they have sustained a loss of 80% in their total revenue in the period of 15.03.2020 – 15.06.2020; iii) all other sectors, which involve services provided to the public and whose activities were mandatorily interrupted by the spread of COVID-19.

- (a) Beneficiaries: the scope of the ad hoc short-term work scheme will be extended so as to provide wage compensation at a rate of 70% of the employee's gross salary to all employers of the private sector, who were not covered by the initial decision based on their business activity and are caught by the geographical scope of the present measure. In other words, the objective of the measure is to provide for a 70% wage subsidy to the entirety of businesses of the private sector.
 - (b) Geographical scope: the measure will be limited to the territories of Mayotte and Guyane.
 - (c) Temporal scope: the measure will be granted until the termination of the state of emergency in the regions of Mayotte and Guyane, which will take place no later than 30 October 2020.
- (8) The measure pursues the same objective as the ad hoc short term-work scheme, namely to support economic activity and avoid lay-offs as a consequence of the severe disturbance caused by the COVID-19 outbreak. The French authorities submit that, while continuously evaluating the development of the crisis and the effect of the ad hoc short-term work scheme in the entire territory of France, the regions of Mayotte and Guyane are considered to be more strongly affected by COVID-19 and therefore it is deemed necessary to provide further support to the local economies. In this context, it is submitted that in the second quarter of 2018, the unemployment rate in Mayotte and Guyane reach 35% and 19% respectively, as opposed to an average of 8.5% in the entire territory of France. During the COVID-19 outbreak, the economic activity in Mayotte and Guyane has decreased by 18% and 25% respectively, as opposed to an average rate of 12% in the region of metropolitan France. In addition, while the state of emergency is lifted for the rest of French overseas territories, it is expected to remain in place for Mayotte and Guyane until 30 October 2020, due to the extraordinary health situation. The above-mentioned factors, coupled with the geographical remoteness, the small-scale and locally based economies, render the regions of Mayotte and Guyane more susceptible to economic disturbances, such as the COVID-19 crisis. Therefore, the regions in question are considered in need of stronger support by the French state.
- (9) 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.

2.3. Legal basis

- (10) The law relating to the amendment of the finance bill is currently under discussion in the Senate and will be put into effect following the Commission's approval of the measure. The relevant legislative provision will stipulate an amendment to the Order n° 2020-770 of 24 June 2020 (as mentioned in recital (6) of the initial decision)⁶, which already laid down the basic provisions for the ad hoc short-term work scheme.

⁶ Ordonnance n° 2020-770 du 24 juin 2020 relative à l'adaptation du taux horaire de l'allocation d'activité partielle, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000042032623&dateTexte=&categorieLien=id>

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is around EUR 11 700 000.
- (12) Aid may be granted under the measure as from its approval until the termination of the state of sanitary emergency in the regions of Mayotte and Guyane, which will take place on 30 October 2020 at the latest. The measure will have retroactive effect as of 1 June 2020.

2.5. Beneficiaries

- (13) The final beneficiaries of the measure are employers in the private sector, residents in Mayotte and Guyane, who make the subsidy claim and are active in all sectors of the economy, except for those, which already benefit from the measure assessed under the initial decision (recital (13) of the initial decision).

2.6. Sectoral and regional scope of the measure

- (14) The measure is open to the sectors identified in recital (13). It applies to the regions of Mayotte and Guyane.

2.7. Other elements of the measure

- (15) Apart from the amendments mentioned in this decision, all other conditions, definitions and commitments applicable to the initial decision remain equally applicable to the measure in question. This applies in particular, but not limited to, the calculation and maximum amount of compensation on the basis of the gross salary (recital (14) of the initial decision)⁷, as well as the administrative procedure relating to the granting of the measure and eligibility controls (recitals (15) – (17) of the initial decision).

2.8. Cumulation

- (16) The French authorities confirm that aid granted under the measure may be cumulated with aid under the de minimis Regulations⁸ or a Block Exemption

⁷ Regarding the minimum hourly subsidy, the French authorities submit that they intend to amend the amount of EUR 8.03 to EUR 7.05 solely for the region of Mayotte, in order to align it with the minimum income applicable in the area. The French authorities confirm that, even in that case, the rate of the wage subsidy will not exceed 80% of the employees' gross salary, as the latter is defined in recital (14) of the initial decision.

⁸ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

Regulations⁹ provided the provisions and cumulation rules of those Regulations are respected.

- (17) The French 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.
- (18) The French authorities confirm that aid granted under the measure may be combined with aid granted under other generally available measures or with aid schemes in the form of employment support measures duly authorised by the Commission, provided the total amount of combined aid does not lead to overcompensation of the wage costs of the personnel concerned.

2.9. Monitoring and reporting

- (19) The French authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (21) The Commission refers to its examination of the existence of State aid in its initial decision (recitals (23) – (28) of the initial decision). However, as regards the modification in question, the following additional remarks are taken into account.
- (22) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those undertakings of costs, which they would have had to bear under normal market conditions.
- (23) The advantage granted by the measure is selective, since it ensures a higher coverage to employers active in certain sectors of the economy, i.e. those not included in the ad hoc short-term work scheme as approved by the initial decision, solely in the regions of Mayotte and Guyane.

⁹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

- (24) 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.
- (25) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The French authorities do not contest that conclusion.

3.3. Compatibility

- (26) 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.
- (27) The Commission refers to its analysis of compatibility as set out in recitals (29) – (36) of the initial decision.
- (28) The measure is part of a series of measures conceived at national level by the French 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 across the economy of the regions of Mayotte and Guyane, which are important for the French economy. The measure is also justified by the severe crisis that these regions are undergoing due to the COVID-19 outbreak, as described in recital (8). This crisis is aggravated by the geographical remoteness, insularity and small size of Mayotte and Guyane, as well as by their small-scale, and therefore more susceptible to disruptions, economies. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak”) described in section 3.10 of the Temporary Framework.
- (29) The Commission 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:
- As required by point 43(a) of the Temporary Framework, the aid granted under the measure aims at preserving employment and avoiding redundancies during the COVID-19 outbreak. In this case, the measure translates into employment security and main income support for employees occupied in severely affected sectors of the economy, who would run a high risk of being laid off in the near future, in view of the reduced economic activity of their employers (see recitals (8), (15), including references to the initial decision).
 - As required by point 43(b) of the Temporary Framework, aid is granted in the form of a scheme to undertakings in the specific sectors and regions that are particularly affected by the COVID-19 outbreak, namely the employers who are resident in the regions of Mayotte and Guyane and who are active in the sectors not covered by the initial decision (see recital (13)).

- As required by point 43(c) of the Temporary Framework, the wage subsidy is granted under the measure: (i) over a period of not more than twelve months, namely 5 months in total (see recital (12)), with applications having been made also before that date (see recital (15) of the present decision and recital (16) of the initial decision), (ii) 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 outbreak (see recital (15) of the present decision and recital (15) of the initial decision) and (iii) subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (see recital (15) of the present decision and recital (15) of the initial decision).
 - As required by point 43(d) 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 (see recitals (7) and (15) of the present decision, as well as recitals (13) and (14) of the initial decision).
 - As required by point 43(e) of the Temporary Framework, the French authorities confirm that if wage subsidies granted under the measure are combined with other generally available or selective employment support measures, overcompensation of the wage costs of the personnel concerned will be excluded (see recital (18)).
 - The measure does not exclusively target employees from the financial sector (see recitals (7)(a), (13)). The measure is therefore in line with points 20bis and 43bis of the Temporary Framework.
- (30) The French authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (19)). The French 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 and the cumulation rules of the relevant Regulations are respected (see recitals (16), (17), (18)).
- (31) 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

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION