

Brussels, 19 March 2021
Case No: 86535
Document No: 1188454
Decision No 021/21/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
0032 Oslo
Norway

Subject: COVID-19 – Aid scheme for voluntary sector organisations

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified scheme to support organisations in the voluntary sector (“the measure”), it considers that the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified on 18 March 2021.²

3 Description of the measure

3.1 Background

- (3) As recognised in the Commission’s Communication on the Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak (“the [Temporary Framework](#)”),³ the COVID-19 outbreak has caused a major shock to global and national economies.
- (4) In response to the COVID-19 pandemic, the Norwegian Government has imposed strict measures relating to, amongst other things, all organised culture events and sports events. These measures have included the cancellation or postponement of cultural events, as well as restrictions such as on the number of attendants at such events.
- (5) By [Decision No 033/20/COL](#), ESA approved a compensation scheme for the cancellation or postponement of sports and volunteer events due to the COVID-19

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² Document Nos 1188667, 1188669 and 1188671

³ Communication from the Commission – Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak of 19 March 2020, OJ C 91, 20.3.2020, p. 1, amended five times, (i) on 3.4.2020, OJ C 112, 4.4.2020, p. 1, (ii) on 8.5.2020, OJ C 164, 13.5.2020, p. 3, (iii) on 29.6.2020, OJ C 218, 2.7.2020, p. 3, (iv) on 13.10.2020, OJ C 340, 13.10.2020, p. 1, and (v) on 28.01.2021, OJ C 34, 01.02.2021, p 6.

outbreak (“the compensation scheme”). Undertakings were eligible for grants under the compensation scheme if they were registered in the Register of Non Profit Organisations and had to cancel or postpone sports or volunteer events because of the COVID-19 pandemic. By [Decision No 092/20/COL](#), ESA approved amendments to the compensation scheme, as well as a prolongation of the compensation period until 31 August 2020. By [Decision No 117/20/COL](#), ESA approved further amendments to the compensation scheme, as well as a prolongation of the compensation period until 31 December 2020. The legal basis for the compensation scheme was Article 61(2)(b) of the EEA Agreement.

- (6) As from 4 January 2021, the Norwegian Directorate of Health (“the Health Directorate”) recommend that all organised cultural events and sports events gathering participants from more than one municipality be postponed, with certain sports and leisure activities for children and youth being exempt.⁴ In addition come regional and local regulations and recommendations in areas affected by the outbreak of certain mutations of the COVID-19 virus. In these areas, all events are cancelled. Events held in other areas must follow the national Regulation on infection control measures due to COVID-19, which contains rules on number of attendants, distance between attendants and hygiene measures.⁵
- (7) The volunteer sector consists of numerous NGOs, which employ approximately 90 000 people and have 148 000 FTE (full-time equivalent) volunteers.⁶ The sector has a high degree of self-generated income, at approximately 50%. The voluntary organisations are mostly small and have limited reserves to tackle the extraordinary situation of the COVID-19 outbreak. Moreover, the loss of income expected in 2021 comes on top of the losses already suffered in 2020. Furthermore, a lack of predictability makes it difficult for the organisations concerned to plan and prepare income generating events and activities.
- (8) It is in light of the above that the Norwegian authorities intend to introduce the notified measure to support voluntary organisations through the COVID-19 crisis.

3.2 Objective

- (9) The measure aims at supporting the organisations concerned through a period where undertakings of all kinds may face a severe lack of liquidity due to the exceptional circumstances created by the COVID-19 outbreak. Indeed, the current restrictions, including caps on the number of people allowed to attend public and private events, have resulted in a significant shortage of funds for voluntary organisations.
- (10) The objective of the measure is to stimulate activity, and to support voluntary organisations through the current COVID-19 crisis. This is secured by enabling those organisations to uphold and adjust activities and events in line with national and local COVID-19 restrictions, as well as enabling them to develop new activities in line with national and local COVID-19 restrictions.

⁴ <https://www.helsedirektoratet.no/veiledere/koronavirus/idrett-kultur-og-frivillighet#arrangementer-pa-offentlig-sted>.

⁵ Section 13 of *forskrift om smitteverntiltak m.v. ved koronautbruddet (covid-19-forskriften)* ([FOR-2020-03-27.470](#)).

⁶ <https://www.ssb.no/en/nasjonalregnskap-og-konjunkturer/statistikker/orgsat/aar>.

3.3 Aid granting authority and national legal basis

- (11) The measure will be administered by the Norwegian Gaming and Foundation Authority (“the NGFA”).⁷
- (12) On 17 December 2020, the Norwegian Parliament approved the budget for the measure by adopting the Government’s budget proposition, Prop. 1 S (2020–2021).⁸ The legal framework for the measure will be set out in a Regulation on a temporary scheme to support organisations in the voluntary sector (“the Regulation”).⁹

3.4 Duration

- (13) The measure is set to come into force following ESA’s approval. The Norwegian authorities have confirmed that no aid will be granted under the measure after 31 December 2021.
- (14) The measure will compensate for costs and losses incurred from 1 January 2021 until 30 June 2021. However, if the restrictions on activities or events are withdrawn before the end of the compensation period of this measure, the Regulation can be repealed from the date the restrictions are repealed.

3.5 Budget

- (15) The budget of the measure is NOK 755 million (approx. EUR 74 million).¹⁰
- (16) The measure, and consequently the distribution of grants, is split into two categories (see description in Section 3.7.3 below). Category A has a budget of NOK 255 million. Category B has a budget of NOK 500 million.

3.6 Beneficiaries

3.6.1 General criteria

- (17) The beneficiaries are legal entities registered in the Register of Voluntary Organisations ([Frivillighetsregisteret](#)).¹¹ It is a requirement that the beneficiaries have events/activities scheduled to take place between 1 January 2021 and 30 June 2021.
- (18) There is no statutory definition of a “voluntary organisation” (*frivillig organisasjon*) in Norway. However, an organisation is generally recognised as a “voluntary organisation” if the following conditions are met:
- Its objective is non-profit.
 - Its statutes stipulate that the organisation cannot pay dividends to members/shareholders.
 - If the organisation is dissolved, remaining funds are transferred to an organisation with an accordant objective.

⁷<https://lottstift.no/en/>

⁸ [Prop. 1 S \(2020-2021\) Proposisjon til Stortinget \(forslag til stortingsvedtak\) for budsjettåret 2021.](#)

⁹ *Forskrift om midlertidig tilskuddsordning for frivillighetssektoren som følge av covid-19.* The Regulation has no reference number yet.

¹⁰ Exchange rate: NOK 1 = EUR 0.09, 17 March 2021.

¹¹ Registration in the register is regulated through the Act No. 88 on the Register of Non-Profit Organisations of 29 June 2007, available here (in Norwegian): <https://lovdata.no/dokument/NL/lov/2007-06-29-88>

- The organisation has members.
- The organisation makes use of volunteers in an organised manner and can document this.

- (19) According to the Norwegian authorities, there are around 60 000 organisations registered in the Register of Voluntary Organisations.
- (20) The undertaking cannot have been in difficulty on 31 December 2019 within the meaning of Article 2(18) of the General Block Exemption Regulation (“[GBER](#)”)¹², but beneficiaries may have entered into such difficulty thereafter as a result of the COVID-19 outbreak. However, the limitation does not apply to small or micro undertakings, provided that they are not subject to collective insolvency procedure under national law and that they have not already received rescue and restructuring aid.

3.6.2 Specific criteria for category A

- (21) A third of the budget is allocated to aid for organisations that in 2020 received VAT compensation from the NGFA on the basis of the Regulation on VAT compensation for voluntary organisations (“the VAT Regulation”).¹³
- (22) Beneficiaries of aid under category A maybe also be eligible for aid under category B, see Section 3.7.3 below. According to the Norwegian authorities, there will be a lower number of beneficiaries in category B than in category A.

3.7 Aid instrument, eligible costs and aid intensity

3.7.1 Introduction

- (23) Aid will be awarded in the form of direct grants. The aid amount will not exceed EUR 1.8 million per undertaking.
- (24) As noted, there are two aid categories under the measure, with different eligibility criteria, eligible costs and aid intensity. However, both have the same definition of what constitutes an “activity” and an “event”.
- (25) An “activity” is defined as services provided by a voluntary organisation, and which are linked to the purpose of the organisation. The activities must be available to the relevant target groups of the given organisation.¹⁴

¹² 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, 26.6.2014, p. 1), referred to at point 1j of Annex XV to the EEA Agreement, as amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating schemes for outermost regions and amending Regulation (EU) 702/2014 as regards the calculation of eligible costs (OJ L 156, 20.6.2017, p. 1), see Joint Committee Decision No 185/2017, and Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments (OJ L 215, 7.7.2020, p. 3), see Joint Committee Decision No 115/2020.

¹³ *Forskrift om merverdiavgiftskompensasjon for frivillige organisasjoner* ([FOR-2018-10-23-1600](#)).

¹⁴ Article 4 of the Regulation.

- (26) An “event” is defined as an occurrence that takes place within a given timeframe and is available to all members, visitors and other participants within the target group.¹⁵

3.7.2 Category A

- (27) Category A is intended to cover additional costs and/or losses of income due to COVID-19. This category covers both costs and/or losses that voluntary organisations experience in more general terms, as well as loss of income pertaining to activities and events. Although these costs/losses do not have to be linked to specific events/activities, the organisations must confirm that they plan to undertake activities or events between 1 January and 30 June 2021. The activity/event may be held in a downscaled manner or also cancelled due to COVID-19 restrictions.
- (28) The aid intensity under category A is up to 15% of the VAT compensation received on the basis of the VAT Regulation in 2020.

3.7.3 Category B

- (29) Category B is limited to compensation for the following costs or losses:
- (i) Costs connected to the development and/or adjustment of activities. This includes the development of digital solutions and the enhancement of competence and skills in the organisations that enable them to arrange activities and events.
 - (ii) Additional costs incurred in connection with events/activities due to restrictions or advice by public authorities (either at municipal, regional or national level) in order to contain the spread of COVID-19. These costs must be a direct consequence of COVID-19 restrictions or recommendations concerning activities and events.
 - (iii) Loss of rental income or income because of reduced attendance at, or participation in, an event/activity, due to restrictions or advice by public authorities (either at municipal, regional or national level) to contain the spread of COVID-19. Income loss is only compensated if events/activities take place as planned or in a scaled-down version. The grant will be calculated by subtracting the actual income generated by the event/activity from the actual costs.
- (30) Unavoidable and accrued costs related to activities and events that are cancelled are also covered under this measure.
- (31) An organisation cannot receive multiple grants for the same activity or event. However, an organisation that has received funds under category A may apply for additional funding under category B, but not to cover the same costs.
- (32) Category B does not cover losses that can be covered by other means, e.g. through insurance settlements and contract clauses. The category also does not cover costs connected to the construction or maintenance of buildings, facilities and real estate. Moreover, it does not cover loss of member fees, licences, sponsorship or advertising income, or income in the form of gifts or endowments.

¹⁵ Article 4 of the Regulation.

- (33) The maximum aid intensity under point (i) is 70% of the incurred losses/costs. The maximum aid intensity for costs/losses falling under points (ii) and (iii) is 100%.

3.8 Compensation procedure

3.8.1 Category A

- (34) The aid under category A will be disbursed to voluntary organisations based on the information that the organisations have reported to the authorities in order to receive VAT compensation on the basis of the VAT Regulation in 2020.
- (35) Applicants must confirm, through an online application form, that they have experienced reduced income and/or additional costs due to COVID-19.
- (36) By utilising the data on VAT compensation received on the basis of the VAT Regulation in 2020, the NGFA will be able to calculate grants according to already reported and approved figures. The model aims to ensure an efficient processing of applications, as the number of organisations falling under this category is potentially very high.
- (37) The category A applications will be processed by the NGFA before the category B applications.

3.8.2 Category B

- (38) The aid under category B will be assessed through an application process on the NGFA's webpage.
- (39) The applicants must confirm that additional costs, development costs and/or loss of income are due to COVID-19 restrictions and recommendations concerning activities and events.

3.9 Overlap with other schemes

- (40) The beneficiaries covered by the measure may be eligible for aid under the proposed scheme to aid sports events of national importance.
- (41) However, both the schemes explicitly state that the beneficiaries cannot apply for aid to cover the same costs or losses already covered by one of the schemes.¹⁶ Moreover, the two draft regulations state that no undertaking is allowed to receive such state aid exceeding a total of EUR 1.8 million. Both regulations are administered by the NGFA, further reducing the risk of overcompensation.
- (42) The Norwegian authorities confirm that aid granted under the measure may be cumulated with *de minimis* aid, provided that the relevant conditions of the *de minimis* Regulation¹⁷ are respected. It may also be cumulated with aid granted under the GBER, provided that conditions of the relevant GBER provisions are respected.

¹⁶ Article 4 of the Regulation, and Article 2-3 of the Regulation on a temporary scheme for events of national importance in the sports sector.

¹⁷ 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 Text with EEA relevance (OJ L 352, 24.12.2013, p. 1).

- (43) To the extent that aid under different sections of the Temporary Framework is granted to the same undertakings, the relevant provisions on cumulation in the Temporary Framework shall be respected.

3.10 Control mechanism and recovery

- (44) All necessary documentation to confirm that the beneficiaries fulfil the conditions under the measure must be provided upon request from the NGFA. The documentation must be kept for ten years for control purposes.
- (45) Beneficiaries must also be able to provide auditor approved documents verifying COVID-19 induced costs and income loss upon request from the NGFA.
- (46) The NGFA will perform an *ex post* control of grants based on a risk assessment of the beneficiaries and the information provided in the applications. Any unjustified or excessive compensation will be recovered.

4 Presence of state aid

- (47) Article 61(1) of the EEA Agreement reads as follows: “Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.”
- (48) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the state or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.
- (49) The compensation envisaged by the measure will be paid from the state budget and is therefore provided through state resources within the meaning of Article 61(1) of the EEA Agreement. As the decision for compensation is taken by the NGFA, the measure is imputable to the State.
- (50) Since the compensation will relieve the beneficiaries from costs and loss of income that would otherwise be borne by their budgets, and will not be granted to all operators in a comparable legal and factual situation, but only to voluntary organisations registered in the Register of Voluntary Organisations, the measure is selective and confers an advantage. As some of the beneficiaries are engaged in economic activities, such as organising certain sports events, the advantage is conferred on undertakings.
- (51) As organising sports or volunteer events is a sector open to competition between undertakings that that compete in intra-EEA trade, there is a risk that the aid could distort or threaten to distort competition and affect such trade.
- (52) The measure therefore constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Aid scheme

- (53) ESA notes that the legal basis of the measure is an act which does not require further implementing measures for the granting of the aid, and which identifies the

beneficiaries in a general and abstract manner. The aid is therefore granted on the basis of an aid scheme.

6 Lawfulness of the aid

- (54) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”): “The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision.”
- (55) The Norwegian authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3 SCA.

7 Compatibility of the measure

7.1 Preliminary remarks

- (56) ESA can declare state aid compatible with the functioning of the EEA Agreement under its Article 61(3)(b) of the EEA Agreement, “to remedy a serious disturbance in the economy of an EC Member State or an EFTA State”.
- (57) The disturbance must affect the whole or an important part of the economy of the State concerned, and not merely that of one of its regions or part of its territory. This is in line with the requirement to interpret exceptions, such as Article 61(3)(b) of the EEA Agreement, strictly.
- (58) In the context of the current COVID-19 outbreak, the Commission adopted the Temporary Framework that sets out temporary state aid measures that it considers compatible under Article 107(3)(b) TFEU, which corresponds to Article 61(3)(b) of the EEA Agreement. The Commission confirms that the current situation, specifically the effects of the containment measures adopted by national authorities on their economies, justify that aid can be granted on the basis of Article 107(3)(b) TFEU. This type of aid is available for a limited period to remedy the liquidity shortage faced by undertakings to ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability.
- (59) In order to ensure uniform application of the state aid rules throughout the European Economic Area, in line with the objective of homogeneity established in Article 1 of the EEA Agreement, ESA applies the compatibility conditions set out in the Temporary Framework to state aid granted by the EEA EFTA States under Article 61(3)(b) in the context of the COVID-19 outbreak.

7.2 Limited amounts of aid

- (60) The measure is one of a series of measures conceived at national level by the Norwegian authorities to remedy a serious disturbance in their economy. The importance of the measure, in order to preserve employment and economic continuity, is widely accepted, and the measure is of a scale which can be reasonably anticipated to produce the desired effects and contribute to the overall recovery of the Norwegian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”), described in Section 3.1 of the Temporary Framework.

- (61) Under the current circumstances, temporary limited amounts of aid to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity can be an appropriate, necessary and targeted solution.
- (62) The measure fulfils the criteria set out in paragraph 22 of the Temporary Framework, in particular:
- The aid granted under the measure does not exceed EUR 1.8 million per undertaking in line with the threshold set in paragraph 22(a) of the Temporary Framework.
 - The aid is granted on the basis of a scheme with an estimated budget of NOK 755 million (EUR 74 million). Therefore, the measure complies with the condition in paragraph 22(b) of the Temporary Framework.
 - The aid may not be granted to undertakings that were already in difficulty (within the meaning of the GBER) on 31 December 2019. However, the limitation does not apply to small or micro undertakings, provided that they are not subject to collective insolvency procedure under national law and that they have not already received rescue and restructuring aid. This complies with paragraph 22(c) and paragraph 22(c) bis of the Temporary Framework.
 - The aid will be granted no later than 31 December 2021, in compliance with the condition set out in paragraph 22(d) of the Temporary Framework.
- (63) In addition, the Norwegian authorities have confirmed that all applicable rules on cumulation will be respected.
- (64) The Norwegian authorities will publish relevant information on each individual grant in the national Norwegian state register¹⁸ within 12 months from the moment of granting in accordance with paragraph 88 of the Temporary Framework.
- (65) ESA therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of an EEA EFTA State and that the requirements laid down in Section 3.1 of the Temporary Framework are complied with.

7.3 Reporting and monitoring

- (66) The Norwegian authorities have committed to comply with the monitoring and reporting provisions in Section 4 of the Temporary Framework.
- (67) The Norwegian authorities commit to submitting annual reports and also to provide ESA with a list of measures put in place based on schemes approved under the Temporary Framework by 31 December 2021.
- (68) Furthermore, the Norwegian authorities commit to keep detailed records regarding the granting of aid provided for by the Temporary Framework. Such records, which must contain all information necessary to establish that the necessary conditions have been fulfilled, must be maintained for 10 years upon granting of the aid, and be provided to ESA upon request.

¹⁸ <https://www.brreg.no/om-oss/oppgavene-vare/alle-registrene-vare/om-registeret-for-offentlig-stotte/>.

- (69) ESA therefore considers that the requirements laid down in Section 4 of Temporary Framework are complied with.

8 Conclusion

- (70) On the basis of the foregoing assessment, ESA considers that the measure constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that this aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b) it has no objections to the implementation of the measure.
- (71) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority,

Yours faithfully,

Bente Angell-Hansen
President
Responsible College Member

Frank J. Büchel
College Member

Högni Kristjánsson
College Member

For Carsten Zatschler
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Bente Angell-Hansen, Catherine Howdle.