

Ministry of Trade, Industry and Fisheries
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NORWAY

Subject: COVID-19 NOR Umbrella scheme for liquidity support for undertakings in municipalities hit by the pandemic

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform the Norwegian authorities that, having assessed the umbrella scheme for liquidity support for undertakings in municipalities hit by the pandemic (“the measure” or “the notified 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 it, 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 the measure on 16 April 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 pandemic has caused a major shock to global and national economies.
- (4) The economic crisis following the COVID-19 pandemic has negatively affected undertakings in Norway of all sizes in all sectors of the economy. The impact of the crisis has been different for different local communities and sectors across Norway, which calls for a variety of support measures.
- (5) As of March 2021, the number of infections in Norway had increased. The Norwegian authorities therefore imposed a series of national and local restrictions, significantly impeding economic activity.
- (6) The outbreak of the COVID-19 pandemic, combined with subsequent stringent restrictive measures, has resulted in increased costs, loss of customers and large

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 1194986, 1194988 and 1194990.

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, 1.2.2021, p. 6.

revenue losses, which in turn has led to an extraordinary liquidity situation for undertakings in many sectors. The crisis has dramatic consequences for many sectors, but the impact varies between municipalities and sectors.

- (7) The Norwegian authorities have therefore proposed the notified measure in order to improve the liquidity of undertakings in municipalities hit by the COVID-19 pandemic. The measure is part of a wider municipal compensation scheme for local undertakings (“the municipal compensation scheme”).
- (8) The municipal compensation scheme is funded through a budget allocation from the Government to the municipalities, which enables them to aid local undertakings. The municipalities may choose different ways, under the compensation scheme, to aid undertakings. The municipalities can offer support under the municipal compensation scheme as follows:
 - (i) In the form of *de minimis* aid under the [de minimis Regulation](#);⁴
 - (ii) In the form of aid under the General Block Exemption Regulation ([GBER](#));⁵
 - (iii) To entities which are not undertakings within the meaning of state aid rules;
 - (iv) Through schemes that the municipalities can notify individually to ESA;
 - (v) Through the notified measure.
- (9) The measure is the only part of the municipal compensation scheme that has been notified to ESA to date and is assessed in this decision.

3.2 Objective

- (10) The measure aims at ensuring access to liquidity, by means of direct grants, for undertakings facing a sudden shortage or unavailability of liquidity due to the impact on the economy of the COVID-19 pandemic. The measure shall, in particular, remedy the situation of local undertakings that are particularly affected by local or national infection control measures or the economic recession following from the COVID-19 pandemic.

⁴ 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), referred to at point 1ea of Annex XV to the EEA Agreement, as amended by 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.

⁵ 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.

- (11) The measure provides all municipalities with a framework within which they may aid local undertakings that experience increased costs or losses. These funds will remedy the situation for undertakings according to local needs not covered by national schemes. These needs vary from municipality to municipality.

3.3 National legal basis

- (12) On 23 February 2021, the Norwegian Parliament approved the budget for the measure by adopting the Government's budget proposition, Prop. 79 S (2020–2021).⁶ The terms and conditions of the measure are described in the letters of assignment to the municipalities, issued by the Ministry of Local Government and Modernisation.⁷
- (13) In addition come relevant parts of the [Regulation on economic management for national authorities sanctioned by Royal decree as of 12 December 2003](#), chapter 6.

3.4 Aid granting authority

- (14) The Ministry of Local Government and Modernisation is the authority responsible for the measure and for defining the framework within which the municipalities may adapt and prioritise local schemes.
- (15) The municipalities are the granting authorities and are responsible for establishing local schemes in accordance with local priorities within the framework laid down by the measure.
- (16) Applications will be assessed according to local schemes. The municipalities can assess applications; (i) continuously until the final deadline for granting aid is reached, (ii) until a fixed date (no later than 1 September 2021 for the first allocation of funds and 31 December 2021 for the second allocation of funds), or (iii) until the total budget is used.

3.5 Beneficiaries

- (17) Aid under the measure may be granted to undertakings, or an entity within an undertaking, with their registered address within the municipality border. Undertakings of all sizes can be eligible.
- (18) There is one exception under the measure to the requirement of having a registered address within the municipality border. Aid may be granted to regional tourist boards ("RTB") and destination management organisations ("DMO") provided the RTB or DMO is owned by undertakings which have a registered address within the granting municipality, or the RTB or DMO has members with a registered address within the granting municipality. RTBs and DMOs are local/regional entities promoting tourism in their respective geographic areas.
- (19) Aid will be granted to applicants that can document a loss of income or increased costs related to the COVID-19 pandemic or the subsequent recession. Increased costs are costs occurring as a result of measures to avoid spread of COVID-19, and costs directly attributable to the COVID-19 recession.

⁶ [Proposition to the Parliament No 79 \(2020–2021\)](#) and [Innst. 233 S \(2020–2021\)](#).

⁷ [Letter of assignment 25 February 2021](#). The letter of assignment 15 April 2021 will be published shortly on this website: [Nye 750 millioner i koronastøtte til næringslivet - regjeringen.no](#)

- (20) The municipalities may in their local schemes establish relevant assessment criteria that go beyond the general criteria of the measure, provided that the provisions of the Temporary Framework are observed.
- (21) To ensure equal treatment of applicants under the local schemes the municipalities must adhere to the relevant principles in the Regulation on economic management for national authorities sanctioned by Royal decree of 12 December 2003, chapter 6 (“the Regulation”).⁸ In line with the Regulation, the municipalities have a number of obligations:
- (i) Prior to assessing applications, the local schemes must be announced. The announcement shall be made so that the municipality reaches the entire group of potential beneficiaries in line with the local scheme.
 - (ii) Announcements of local schemes must contain all relevant award/assessment criteria, including calculation methods and a description of eligible beneficiaries.
 - (iii) Beneficiaries under the local scheme must be defined. The announcement must make clear whether or not an undertaking is eligible under a particular scheme. The municipality cannot have the discretion to reject one undertaking, while accepting another, on the basis of subjective criteria or criteria not included in the local scheme.
 - (iv) Assessment/award criteria, including calculation methods cannot be changed after the announcement of the local scheme.
 - (v) The municipalities must also adhere to the Act on public administration⁹ and the Act on municipalities and county administration.¹⁰
- (22) Relevant eligibility criteria for local schemes can be, but are not restricted to:
- Sectors or undertakings with a loss of turnover, income or revenue due to COVID-19 or the subsequent recession.
 - Sectors or undertakings subject to increased costs due to particular restrictions under COVID-19 regulations.
 - Sectors or undertakings subject to a loss of goods due to COVID-19.
- (23) The measure does not apply to undertakings that are fully funded by public authorities. The measure will not be open to the finance sector.
- (24) Beneficiaries cannot have been in difficulty on 31 December 2019 within the meaning of Article 2(18) of the GBER, 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 a collective insolvency procedure under national law and that they have not already received rescue and restructuring aid.

3.6 Budget and duration

- (25) The municipal compensation scheme has been allocated NOK 1 750 million. Provided that a proposal for an additional NOK 500 million is approved by the

⁸ [FOR-2003-12-12-1938](#), *reglement for økonomistyring i staten*.

⁹ [LOV-1967-02-10](#), *lov om behandlingsmåten i forvaltningssaker (forvaltningsloven)*.

¹⁰ [LOV-2018-06-22-83](#), *lov om kommuner og fylkeskommuner (kommuneloven)*.

Parliament, the total budget allocation to the municipal compensation scheme will be NOK 2 250 million. How the municipalities allocate funds between the various instruments described in paragraph (8), is up to the municipalities. The measure subject to this decision is one of the instruments available to the municipalities under which they can provide grants to undertakings.

- (26) Out of the NOK 2 250 million budget allocation to the municipal compensation scheme, NOK 1 720 million remain.¹¹ However, the Norwegian authorities expect that the budget allocation from the Parliament may further increase, and the municipalities are also allowed to contribute to the measure with their own funds. Therefore, the notified estimated budget for the measure is NOK 2 000 million.
- (27) Two allocations of funds to municipalities have already taken place under the municipal compensation scheme:
- (i) The first allocation of funds was done based on two criteria:
 - (a) Number of unemployed by 16 February 2021:¹² If a municipality had a higher unemployment than the national average, or if the municipality was subject to restrictions in accordance with chapter 5 of the Regulation on the COVID-19 measures¹³, the municipalities were eligible for a share of NOK 500 million in total. The distribution of funds was weighted according to the number of unemployed people in each municipality.
 - (b) Population size: Recognising that all municipalities suffer from the recession and impacts of the crisis, a total of NOK 500 million was distributed between all municipalities. The distribution was weighted with the number of inhabitants, with a minimum amount of NOK 250 000 per municipality.
 - (i) The second allocation took place 12 April 2021. NOK 675 million was distributed according to the number of people employed in the accommodation and restaurant sectors in the municipalities.
- In addition, NOK 75 million were reserved for municipalities which usually have a large influx of Easter tourism and therefore are particularly hit by COVID-19 measures.
- (28) Distribution criteria for a possible third allocation under the municipal compensation scheme has not been determined.
- (29) The measure will enter into force on the date of ESA's approval. Funds from the first allocation must be granted no later than 1 September 2021. Funds from the second allocation must be granted no later than 31 December 2021.

3.7 Calculation of aid amounts

- (30) The aid will be granted in the form of direct grants and they may not exceed EUR 1 800 000 per undertaking. All figures used are gross, i.e. before any deduction of tax or other charges.

¹¹ NOK 530 million has already been dispersed on the basis of other instruments of the municipal compensation scheme, as described in paragraph 8 of this decision.

¹² The most recent figures at the time of the allocation.

¹³ [FOR-2020-03-27-470](#), forskrift om smitteverntiltak mv. ved koronautbruddet (covid-19-forskriften).

- (31) The aid amount will be calculated based on a set of predefined eligible costs or losses, according to local schemes. Aid intensities are subject to municipal discretion but up to 100% of the costs or losses can be covered by the grant. The aid will be calculated on the basis of pre-approved costs or losses due to lost turnover, revenue or income. Costs and losses due to lost turnover, revenue or income must be documented according to local schemes. The following are examples of supported costs:
- Losses due to lost turnover, revenue or income.
 - Extra costs for implementation of COVID-19 measures.
- (32) Costs and losses due to lost turnover, revenue or income must accrue from the economic activities within the granting municipality. The aid cannot exceed lost turnover, revenue, income or extra costs.

3.8 Cumulation

- (33) Aid under this measure may be cumulated with aid under de minimis Regulations or with aid under the GBER provided that the provisions and cumulation rules of those regulations are respected.
- (34) To the extent that aid based on the same or a different section of the Temporary Framework is granted to the same undertaking, the relevant thresholds and provisions on cumulation in the Temporary Framework shall be respected.
- (35) Aid under this measure can be cumulated with aid received under other aid schemes covering the same eligible costs or losses up to 100% of the damage incurred. To ensure that aid under this measure does not lead to overcompensation, the beneficiaries must declare other aid received covering the same eligible costs. The beneficiaries must specify how much aid they have received, under what scheme they have received the aid and which costs this aid covers.

3.9 Monitoring and reporting

- (36) The Norwegian authorities confirm that the reporting obligations set out in Section 4 of the Temporary Framework will be complied with.

4 Presence of state aid

- (37) 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."
- (38) The qualification of a measure as aid within the meaning of this provision therefore 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.
- (39) The measure is financed from the state budget and is therefore provided through state resources within the meaning of Article 61(1) of the EEA Agreement. The

measure is imputable to the State, as the compensation is administered by the municipalities.

- (40) The measure provides certain undertakings an advantage in the form of direct grants. Therefore, the measure confers on the beneficiaries an economic advantage, which the recipients could not have obtained under normal market conditions.
- (41) The measure is selective as it is only available to undertakings located within certain municipalities in Norway. Further, the measure is available to specific entities promoting tourism in their respective geographic areas.
- (42) The beneficiaries of the measure are active in sectors subject to intra-EEA competition and trade. Therefore, the measure is liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement.
- (43) In the light of the above, ESA concludes that the measure meets the cumulative conditions under Article 61(1) of the EEA Agreement and thus constitutes state aid within the meaning of this provision.

5 Procedural requirements

- (44) 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."
- (45) The Norwegian authorities have submitted a notification of the aid measure and have not let the measure enter into force yet. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the measure

6.1 Preliminary remarks

- (46) 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".
- (47) 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.
- (48) In the context of the current COVID-19 pandemic, 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 pandemic do not undermine their viability.

(49) 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 pandemic.

6.2 Limited amounts of aid

(50) 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.

(51) 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.

(52) 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 out in paragraph 22(a) of the Temporary Framework.
- The aid is granted on the basis of a scheme with an estimated budget of NOK 2000 million (EUR 198 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 a 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.

(53) In addition, the Norwegian authorities have confirmed that all applicable rules on cumulation will be respected.

(54) 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.

6.3 Reporting and monitoring

(55) The Norwegian authorities have committed to comply with the monitoring and reporting provisions in Section 4 of the Temporary Framework.

- (56) 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. The Norwegian authorities will list all local schemes within the measure, their budget and duration.
- (57) 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.
- (58) ESA therefore considers that the requirements laid down in Section 4 of Temporary Framework are complied with.

7 Conclusion

- (59) 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.
- (60) 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,

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