

Brussels, 3 December 2020
Case No: 85815
Document No: 1160548
Decision No 143/20/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
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NORWAY

Subject: COVID-19 Amendments and prolongation of the liquidity support grant scheme for undertakings in the tourism sector

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified amendments and prolongation of the liquidity support grant scheme for undertakings in the Norwegian tourism sector (“the measures”), it considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measures, as they are 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 measures on 1 December 2020.²

3 Description of the measures

3.1 The scheme currently in force

- (3) By [Decision No 084/20/COL](#), ESA approved the liquidity support grant scheme for undertakings in the tourism sector (“the scheme”). The scheme was declared compatible on the basis of Article 61(3)(b) of the EEA Agreement. ESA applied the compatibility conditions of the European 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 that sets out temporary state aid measures that the Commission considers compatible under Article 107(3)(b) TFEU, which corresponds to Article 61(3)(b) of the EEA Agreement.
- (4) The Norwegian authorities subsequently sought to amend the scheme, and three other approved aid schemes, to make use of amendments in the Temporary

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 1166532 and 1166534.

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 four 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, and (iv) on 13.10.2020, OJ C 340, 13.10.2020, p. 1.

Framework made after ESA's decision. These amendments were approved by way of [Decision No 100/20/COL](#).

- (5) The objective, structure and existing conditions of the scheme are described in Decisions No 084/20/COL and 100/20/COL. The Norwegian authorities have confirmed that, aside from the notified amendments and prolongation, the scheme will remain unchanged.

3.2 Background – continued negative impact of COVID-19

- (6) As recognised in the Temporary Framework, the COVID-19 outbreak has caused a major shock to global and national economies. The containment measures adopted by national authorities have led to a sudden decline in demand for services nationally and globally.
- (7) The COVID-19 outbreak and consequent containment measures implemented in Norway, have had a significant negative impact on economic activities considered by the Norwegian authorities to concern or be related to tourism. Statistics Norway reported for example that overnight stays in August (including hotel stays, camping and cabins) were down by 34.4% compared to August 2019. General domestic travel activity was further down by 38% in the first quarter compared to the same period in 2019.⁴
- (8) It has been estimated that the Norwegian tourism industry has suffered an accumulated loss of NOK 41 billion as a result of the COVID-19 outbreak. Businesses that are dependent on international guests are facing severe economic difficulties.⁵
- (9) In response to the ongoing nature of the pandemic, the Norwegian authorities have maintained strong preventative public health measures. The containment measures adopted include for example social distancing, various restrictions on daily life, as well as travel restrictions and quarantine rules.
- (10) Following a temporary easing over the summer, additional measures have lately been introduced, due to rising infection rates. The measures imposed by the Norwegian Government from 5 November 2020 include:
- Travellers from countries not meeting defined criteria on infection levels (red countries) must present a certificate of a negative COVID-19 test when they arrive in Norway. The test must have been taken less than 72 hours before entry. Travelers that fail to produce such a certificate may be refused entry.
 - Persons who come to Norway must have a permanent residence in the country, or the employer or client must provide a guarantee of a suitable place of residence upon arrival. Persons, including tourists and visitors, who do not have their own residence or employer or client in Norway, must stay in quarantine hotels and get tested during the quarantine period.
 - A recommendation to avoid unnecessary domestic travel.

⁴ <https://www.ssb.no/transport-og-reiseliv/artikler-og-publikasjoner/reiseaktiviteten-kraftig-redusert-etter-koronautbruddet>.

⁵ <https://www.nhoreiseliv.no/vi-mener/koronavirus/nyhet/2020/reiselivet-har-tapt-41-milliarder/>.

- A recommendation that everyone in the coming weeks stay at home as much as possible and limit social contact with other people.
 - The number of guests at social gatherings in private homes, gardens or cabins should not exceed five, in addition to the household members.
 - Limits of up to 20 people at private gatherings in public places and in rented venues, and up to 50 people at indoor events without fixed seats. There can however be up to 200 people at indoor events where everyone in the audience sits in fixed seats.
 - A national ban on serving alcohol after midnight. Restaurants with a license to sell alcohol cannot let in new guests after 22:00.⁶
- (11) In addition to the measures imposed at the national level, stricter local measures may apply.
- (12) The consequences of the COVID-19 outbreak on the economy in general, and on the particular sectors that are severely affected by the health measures, have thus persisted longer than anticipated. The Norwegian authorities consider it likely that the pandemic will lead to long lasting or permanent changes in the tourism sector and related sectors, which call for large-scale adjustments.
- (13) A lack of liquidity may prevent undertakings from carrying out good projects that are necessary to adjust to the new situation. On this basis, and in light of experiences with the scheme, the Norwegian authorities see the need for the measures.

3.3 The prolongation

- (14) The scheme expires on 31 December 2020. Given that the effects of the COVID-19 outbreak have been more severe and long-lasting than originally foreseen, the Norwegian authorities consider it necessary to prolong the scheme. As amended, the scheme will expire on 30 June 2021. No aid will be granted after this date.

3.4 Increased budget

- (15) Based on the same considerations and reflecting that additional sectors and beneficiaries will be included in the scheme, as amended (see below), the estimated budget is increased from NOK 250 million to NOK 550 million.

3.5 Extended scope of beneficiaries

- (16) It follows from Decision No 084/20/COL that undertakings carrying out the following tourism related economic activities may qualify as beneficiaries:
- accommodation services (NACE 55),
 - food and beverage service activities (NACE 56),
 - sport and other recreation services (NACE 93),
 - cultural activities (NACE 90 and 91),
 - travel agency and tour operator reservation services (NACE 79),
 - transportation (NACE 49, 50 and 51), and

⁶ <https://www.regjeringen.no/en/aktuelt/stay-at-home-have-as-little-social-contact-as-possible/id2783763/>. Some of the measures entered into effect later than 5 November.

- rental and leasing activities (NACE 77).
- (17) The scheme, as amended, will additionally include conventions and trade shows (NACE 82.3) and impresario activities (NACE 74.903).⁷ Business activities in the form of conventions and trade shows encompass the organisation, promotion and/or management of events, such as business and trade shows, conventions, conferences and meetings. Impresario activities consist of services offered by agents/organisers (impresarios) who, on behalf of others, mediate engagements in entertainment and sports.
- (18) The Norwegian authorities' view is that the activities to be included are closely related to the tourism-related activities already eligible for support under the scheme. Businesses organising conventions and trade shows, and performing impresario activities, depend to a large extent on a well-functioning tourism industry. In particular, participants may have to travel to participate at conferences and events. In the view of the Norwegian authorities, the additional beneficiaries face the same challenges as the existing beneficiaries.

3.6 Adjusted entry requirements for aid

- (19) Beneficiaries under the existing scheme must document an expected loss in turnover of at least 30% on average for the three months regarded as the summer season in Norway – June, July and August – compared to the summer season in 2019. Under the scheme, as amended, applicants that were active on the market in 2019 must instead document a loss of turnover of at least 30% on average for the previous two months before the application, compared to an average loss of turnover for the equivalent months in 2019. Amending the reference period used as the basis for measuring loss of turnover is intended to more accurately target the relevant applicants and their liquidity needs under the ongoing pandemic.
- (20) The Norwegian authorities also consider it appropriate to include undertakings that entered the market in the beginning of 2020 under the scheme. These undertakings made business investments prior to the announcement of the COVID-19 pandemic and implementation of containment measures in Norway. They are also facing severe economic challenges and a liquidity shortage due to the pandemic and related containment measures. The Norwegian authorities consider that there is a need to include such undertakings, in order to ensure that disruptions caused by the COVID-19 outbreak do not undermine their viability.
- (21) In order to qualify for aid, applicants without reference months in 2019 are required to document a loss of turnover of at least 30% on average for the previous two months before application, compared to the average turnover in January and February 2020. Using the average turnover in January and February 2020 as the reference aims to ensure equal treatment between all undertakings eligible for funding. The Norwegian authorities consider that the risk of abuse will be limited, as only undertakings with economic activity (turnover), before the restrictions came into place, are eligible.

3.7 Amendments concerning eligible costs

- (22) As set out in Decision No 084/20/COL, the aid amount will be calculated based on a set of predefined eligible costs. The eligible costs have been adjusted. These

⁷ Code 74.903 *impresario activities* refers to the Norwegian *næringskode*, which operates with an additional fifth digit to NACE 7490: (<https://www.brreg.no/bedrift/naeringskoder/>).

adjustments include the addition of costs concerning adjustments of marketing material to new customer segments, as well as costs relating to adjustments away from the tourism sector to other sectors where resources can be better utilised. The references to costs of reopening, and to maintenance costs, are taken off the list of eligible costs.

- (23) The eligible costs under the amended scheme comprise costs associated with limiting the spread of COVID-19 and with adjustments related to changes in customer preference as a result of the COVID-19 outbreak, adjustments to marketing material to new customer segments, and adjustments away from the tourism sector to other sectors where resources can be better utilised.
- (24) The costs related to planned activities will form the basis for grants. The types of project costs that can be covered (supported costs) remain the same as under the existing scheme.

3.8 Reduced aid intensities

- (25) The scheme currently allows for covering up to 100% of the eligible costs. Under the scheme, as amended, only up to 80% of the eligible costs may be covered for small and medium sized businesses, and only up to 70% of the eligible costs may be covered for large enterprises.
- (26) In addition to these upper limits, the amended scheme incorporates a new cost-specific limit for one type of supported costs. The costs for tangible and intangible assets necessary for project implementation can only be covered up to a maximum of 20%.

3.9 More restrictive criteria for cumulation

- (27) Under the existing scheme, aid can be combined with other types of aid received through other aid measures covering the same eligible costs, up to 100% of the eligible costs. Under the scheme, as amended, aid can be combined with other types of aid received through other aid measures only insofar as the aid does not cover the same eligible costs.
- (28) Undertakings that have received grants under the existing scheme, will be eligible to apply for more funding provided that the funding does not cover the same eligible costs, and that the total grant is limited to EUR 800 000. Beneficiaries may also benefit from other COVID-19 related aid schemes, including schemes based on Article 61(2)(b) of the EEA Agreement, insofar as all conditions under the scheme in question are fulfilled and the rules on cumulation are respected.

3.10 National legal basis

- (29) The national legal basis is a Parliamentary Decision, authorising the amendments and prolongation, and a letter of additional assignment to Innovation Norway from the Ministry of Trade, Industry and Fisheries, setting out the guidelines for grants and the administration of the scheme.⁸

⁸ At the time of writing, Innst. 119 S (2020-2021) is available on the following link: <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Stortinget/2020-2021/inns-202021-019s/?all=true>. The Decision is based on the Government Proposal (Prop. 142 S (2019-2020) on amendments to the national budget.

3.11 Granting authority and administration

- (30) The scheme will continue to be administered by Innovation Norway. Applications will be assessed continuously until the total budget is exhausted. As under the existing scheme, the aid will be disbursed in instalments.

4 Presence of state aid

- (31) 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.”
- (32) 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.
- (33) ESA has concluded that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. There is nothing in the notification to indicate that this conclusion should be altered with respect to the measures. On this basis, ESA concludes that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (34) 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.”
- (35) The Norwegian authorities have notified the measures and have yet to let the amendments and prolongation enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the measures

- (36) 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. Temporary limited amounts of aid in the form of direct grants to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity can be an appropriate, necessary and targeted solution during the current circumstances.
- (37) The measures are part of a series of measures conceived at the national level to remedy a serious disturbance in the Norwegian economy. The importance of the measures in order to preserve employment and economic continuity is widely accepted, and the measures are of a scale that can be reasonably anticipated to produce the desired effects and contribute to the overall recovery. Furthermore,

the measures have 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. The Temporary Framework itself has been adjusted to take account of the outbreak, and consequent health measures and economic effects, persisting for some time to come.

(38) ESA concluded in Decisions No 084/20/COL and 100/20/COL that the scheme is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b). The measures do not alter those conclusions. As regards the compatibility criteria in Section 3.1 of the Temporary Framework, ESA notes with respect to the measures that:

- They are designed to temporarily provide limited amounts of aid to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity in the context of the COVID-19 outbreak. The amendments and prolongation, including the adjustment of the reference period and inclusion of additional undertakings, are consistent with this objective, when viewed in the light of the on-going nature of the pandemic. The objective of the measures is therefore in line with paragraph 21 of the Temporary Framework.
- The aid will be granted on the basis of a scheme with an estimated budget of NOK 550 million. This is in accordance with the condition in paragraph 22(b) of the Temporary Framework.
- The aid will be granted no later than 30 June 2021, which is in compliance with the condition set out in paragraph 22(d) of the Temporary Framework.

(39) As mentioned above, grants under the scheme are limited in line with the threshold in paragraph 22(a) of the Temporary Framework to EUR 800 000 in total per undertaking. The Norwegian authorities have further confirmed that, aside from the notified amendments, the measures amount to a continuation of the existing, already declared compatible, scheme. The Norwegian authorities have also confirmed that all the applicable rules on cumulation and reporting will be adhered to.

(40) ESA therefore considers that the measures are 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 Conclusion

(41) On the basis of the above, ESA considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that the 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 measures.

(42) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other information that should not be published.

For the EFTA Surveillance Authority,

Yours faithfully,

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