



## EUROPEAN COMMISSION

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**PUBLIC VERSION**

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**Subject: State Aid SA.42268 (2017/E) – Germany  
State aid for the promotion of public welfare services  
State aid SA.42877 (2017/E) – Germany  
CarePool Hannover GmbH**

Sir,

### **1. PROCEDURE**

#### **1.1. With regard to SA.42268 (2017/E) – State aid for the promotion of public welfare services**

- (1) On 16 June 2015 the Commission received a complaint concerning alleged State aid granted by the *Land* of Lower Saxony to the umbrella welfare service organisations established in the *Land* Lower Saxony (*Spitzenverbände der Freien Wohlfahrtspflege in Niedersachsen*, hereinafter *Spitzenverbände*), i.e. *Caritas* (catholic aid organisation), Red Cross (“*Deutsches Rotes Kreuz*”), *Diakonie* (protestant aid organisation), the Workers' welfare organisation (“*Arbeiterwohlfahrt*”), the Jewish welfare organisation (“*Jüdische Wohlfahrt*”) and the Parity welfare organisation (“*Paritätischer Wohlfahrtsverband*”). The complainant submitted further information on 23 February 2016 and 2 September 2016.
- (2) Several exchanges took place between the Commission and the German authorities to collect information on the measure. More specifically, a request for information was sent on 30 July 2015 and on 8 February 2016 to which the German authorities replied respectively on 9 September 2015, on 6 April 2016 and on 7 April 2016. The Commission met the German authorities on 5 July 2016 to discuss their replies. The German authorities submitted further information on 16 November 2016.

Seiner Exzellenz Herrn Sigmar GABRIEL  
Bundesminister des Auswärtigen  
Werderscher Markt 1  
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- (3) On 14 February 2017 the services of DG Competition sent to the complainant their preliminary view on the measure considering it, in so far as it constitutes aid, to be existing aid within the meaning of Article 1 (b) (i) of Regulation (EC) No 2015/1589<sup>1</sup>. The complainant disagreed with the assessment by the services of DG Competition and replied to the preliminary assessment letter on 10 March 2017.
- (4) The German authorities submitted further information on 31 August 2017 and 5 and 14 September 2017.

## **1.2. With regard to SA. 42877 (2017/E) – Carepool Hannover GmbH**

- (5) On 12 August 2015 the Commission received a further largely identical complaint.<sup>2</sup> A request for information was sent on 8 February 2016 to which the German authorities replied on 6 April 2016 and on 7 April 2017. The Commission met the German authorities on 5 July 2016 to discuss their replies. The German authorities submitted further information on 30 September 2016 and 16 November 2016.
- (6) On 14 February 2017 the services of DG Competition sent to the complainant their preliminary view on the measure considering it, in so far as it constitutes aid, to be existing aid. The complainant disagreed with the assessment by the services of DG Competition and replied to the preliminary assessment letter on 10 March 2017.
- (7) The German authorities submitted further information on 31 August 2017 and 5 and 14 September 2017.

## **2. DETAILED DESCRIPTION OF THE MEASURE**

### **2.1. The beneficiaries**

- (8) The *Land* of Lower Saxony grants public funding to the *Spitzenverbände* established in the *Land* of Lower Saxony for the provision of social services. These organisations are the Workers' welfare organisation, Caritas, the Red Cross, Diakonie, the Jewish welfare organisation and the Parity welfare organisation.
- (9) The *Spitzenverbände* provide, through their member organisations, various social services. The activities vary from member organisation to member organisation and are of economic and non-economic nature. Economic activities are e.g. long-term care, nurseries, addicts' counselling, support for elderlies and people with disabilities, whereas non-economic activities are e.g. "warming-up facilities" and night-shelters for homeless people and support for migrants.
- (10) The *Spitzenverbände* and their member organisations follow general interest objectives and are of not-for-profit nature. The *Spitzenverbände* joined forces in the Joint welfare service Commission of the *Land* ("*Landesarbeitsgemeinschaft der Freien Wohlfahrtspflege*", hereinafter *Landesarbeitsgemeinschaft*).

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<sup>1</sup> Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 249, 24.9.2015, p. 9.

<sup>2</sup> For details see below point 3.2.

### 2.1.1. *Workers' welfare organisation*

- (11) The Workers' welfare organisation operates in Lower Saxony with three *Spitzenverbände* at regional level (*Bezirksverbände*). These *Spitzenverbände* have together 41 member organisations at county level (*Kreisverbände*). The 41 organisations at county level have 411 member organisations at municipality level (*Ortsverbände*). The organisations at municipality level count together approximately 39 500 individuals as members.

### 2.1.2. *Caritas*

- (12) The Caritas operates in Lower Saxony with three *Spitzenverbände*. Furthermore Caritas operates at regional level (*Regionalverbände*) and local level (*örtliche Verbände*). Each of these organisations may have individuals or organisations as members.

### 2.1.3. *The Red Cross*

- (13) The Red Cross operates in Lower Saxony at *Land* level (*Landesverbände*) with two *Spitzenverbände*, at county level (*Kreisverbände*) and at municipality level (*Ortsvereine*). Individuals are members at county or municipality level.

### 2.1.4. *Diakonie*

- (14) The three *Spitzenverbände* have more than 3 000 organisations in Lower Saxony.

### 2.1.5. *The Jewish welfare organisation*

- (15) The members of the *Spitzenverband* are the Jewish communities in Lower Saxony, their members are individuals.

### 2.1.6. *The Parity welfare organisation*

- (16) The *Spitzenverband* is the head association for more than 800 member organisations. The member organisations operate at district level (*Landkreis*), at municipality level (*kreisfreie Stadt*) and in subject-oriented working groups (*fachliche Arbeitskreise*).

## 2.2. **The funding**

- (17) The public funding by the *Land* to the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft (in der Landesarbeitsgemeinschaft zusammengeschlossene Spitzenverbände)* has occurred since 1956 pursuant to the "Gesetz über das Zahlenlotto" and is at present based on § 2 para. 1 Nr. 1, para. 3 Nr. 1 of the Law on the Funding of Welfare Services in Lower-Saxony ("Niedersächsisches Gesetz zur Förderung der Freien Wohlfahrtspflege" of 16 December 2014 which entered into force on 1 January 2015).<sup>3</sup>
- (18) According to these provisions the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive together yearly at least EUR 21 252 000 (§ 2 para. 1 Nr. 1). In addition, in case the revenues of the *Land* from gambling fees

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<sup>3</sup> Nds. GVBl. 2014, p. 429.

are higher than EUR 147 300 000<sup>4</sup>, the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive 18.63 % of these additional revenues (meaning from the amount going beyond EUR 147 300 000), § 2 para. 3 Nr. 1. In 2016, for example, the public funding amounted in total (for all *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft*) to EUR 23 346 000 (EUR 21 252 000 according to § 2 para. 1 Nr. 1 and EUR 2 094 000 according to § 2 para. 3 Nr. 1.

- (19) The *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* have agreed on the distribution of the public funding by the *Land* among the six groups of *Spitzenverbände*. The distribution is based on several criteria, e.g. the organisation's size, the number of its members, the number of its institutions and the number of its full-time employees and volunteers. Currently, the distribution is laid down in the agreement between the *Land* Lower Saxony and the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* of 8 February 2016. According to § 1(2) of the agreement the Jewish welfare organisation receives EUR 250 000. The remaining amount is distributed as follows: 18% for the Workers' welfare organisation, 20% for Caritas, 18% for the Red Cross, 26% for Diakonie and 18 % for the Parity welfare organisation. The respective *Spitzenverbände* distributes the funding received to its respective member organisations. The amounts received by each individual member organisations vary.

### 3. THE COMPLAINANTS

#### 3.1. Landesverband Niedersachsen/Bremen and Hamburg/Schleswig-Holstein of Verband Deutscher Alten- und Behindertenhilfe e.V. (SA.42268)

- (20) The complainant, Landesverband Niedersachsen/Bremen and Hamburg/Schleswig-Holstein of Verband Deutscher Alten- und Behindertenhilfe e.V. ('Landesverband'), is a trade association representing the interests of around 180 companies established in Lower Saxony providing services in the area of inpatient care, outpatient care, assistance to disabled persons, child and youth support and home meal services.
- (21) The complainant alleges that the public support allows the beneficiaries to offer their services below market price and to remunerate their employees above market price. Moreover, the complainant suggests that the public support is not limited to the financing of the performance of certain activities.
- (22) Furthermore, the complainant is of the opinion that the measure constitutes new aid due to legislative changes in 1997 and 2015.

#### 3.2. Carepool Hannover GmbH (SA. 42877)

- (23) Carepool Hannover GmbH ('Carepool') is offering outpatient care services in Lower-Saxony and has approximately 124 employees. Carepool seems to be a member of the trade association which filed the complaint registered under SA.42268 (see above).

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<sup>4</sup> Since 1 January 2017; for 2015 and 2016 threshold was EUR 146 300 000.

- (24) The allegations raised by Carepool are to a large extent identical to the allegations raised by Landesverband described above under 3.1. with regard to the complaint filed under SA.42268. Beyond SA.42268 the complainant raises allegations with regard to two additional measures: He alleges that welfare service organisations (1) (indirectly) profit from income tax allowances granted to their voluntary staff and (2) profit from a lower licence fee for general access to public broadcasting.
- (25) The present decision deals exclusively with the measure described in detail above under 2 as the complaint with regard to the two additional measures is deemed to be withdrawn pursuant to Article 24 (2) of Regulation (EC) No 2015/1589.

#### 4. COMMENTS AND INFORMATION FROM GERMANY

- (26) The German authorities put forward the argumentation that the measure does not constitute State aid pursuant to Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU") as the welfare service organisations would carry predominantly non-economic activities and the measure would not fulfill the criteria of advantage, selectivity, effect on trade and distortion of competition.
- (27) In addition, the German authorities argue that most of the amounts distributed by the *Spitzenverbände* to their member organisations are far below the threshold of the SGEI *de minimis* Regulation<sup>5</sup> and also therefore the measure does not constitute aid.
- (28) Moreover, the German authorities argue that the above named *Spitzenverbände* benefit from the public funding by the *Land* of Lower Saxony since 1956 ("Gesetz über das Zahlenlotto" from 27 February 1956) and that the measure is therefore dating from before the creation of the European Economic Community<sup>6</sup> and consequently, if it were to be considered as state aid, it would constitute existing aid as the measure - although there have been legislative changes - has not undergone substantive changes since its introduction in 1956.
- (29) Finally, the German authorities argue that even if the measure would constitute new State aid it would be compatible with the internal market as all the criteria of the 2012 SGEI Decision<sup>7</sup> would be fulfilled.

#### 5. ASSESSMENT OF THE MEASURE

- (30) The public funding by the *Land* of Lower-Saxony for the provision of social services in favour of the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* was introduced with the Law on Lottery ("Gesetz

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<sup>5</sup> Regulation (EU) 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, L 114, 26.4.2012, p. 8.

<sup>6</sup> The Treaty on the European Economic Community entered into force on 1 January 1958.

<sup>7</sup> Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, L 7, 11.1.2012, p. 3.

über das Zahlenlotto” of 27 February 1956 which entered into force on the same day<sup>8)</sup> in 1956 and applies since then.

- (31) The German authorities have submitted that if the public funding concerned is aid it would be existing aid. The Commission shares this position.
- (32) According to Article 1 (b) (i) of Regulation (EC) No 2015/1589, existing aid is all aid which existed before the entry into force of the TFEU in the Member State concerned (for Germany before 1.1.1958) and is still applicable after the entry into force of the TFEU in the respective Member State. It is only where a Member State alters existing aid and this alteration affects the original aid in substance, the latter is transformed into a 'new aid' pursuant to Article 1 (c) of Regulation No 2015/1589.
- (33) A new aid thus created would then have to be notified to the Commission in accordance with Article 108 (3) TFEU and would become 'unlawful aid' if it were to be continued in breach of the notification requirement. The normal procedure for notified aid applies<sup>10</sup>. However, in accordance with Article 4 of Regulation 794/2004<sup>11</sup>, modifications of a purely formal or administrative nature which cannot affect the evaluation of the compatibility of the aid measure with the common market as well as an increase in the original budget of an existing aid scheme by up to 20 % shall not be considered an alteration to existing aid.
- (34) The financial support by the Land of Lower-Saxony for the provision of social services in favour of the welfare service organisations was introduced in 1956 by the Law on Lottery (“Gesetz über das Zahlenlotto” of 27 February 1956 which entered into force on the same day)<sup>12</sup>. According to § 11 para. 1 betting operators have to pay a lottery concession fee of 18% of the bet to the Land. 1/9 of the overall revenues from lottery concession fees is paid to the municipalities in which betting operators maintain a collection point, § 11 (3). § 12 para. 1 states that 70 % of the remaining revenues from lottery concession fees are provided to the welfare service organisations which joined the *Landesarbeitsgemeinschaft* for the fulfilment of their welfare service tasks<sup>13</sup>. Guidelines of the state government (“Richtlinien für die Verwendung der Konzessionsabgabe zur Erfüllung

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<sup>8</sup> Nds. GVBl. 1956, p. 9.

<sup>9</sup> See below as of recital 31.

<sup>10</sup> Judgment of the Court of First Instance of 30 April 2002, T-195/01 and T-207/01, *Gibraltar*, EU:T:2002:111, paragraphs 109-111.

<sup>11</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 140, 30.4.2004, p. 1, as amended.

<sup>12</sup> Nds. GVBl. 1956, p. 9.

<sup>13</sup> § 12 (1) lautet wie folgt: *Das verbleibende Aufkommen aus der Konzessionsabgabe ist zu 70% den Verbänden, die in der Landesarbeitsgemeinschaft der freien Wohlfahrtspflege zusammengeschlossen sind, zur Erfüllung wohlfahrtspflegerischer Aufgaben nach Richtlinien der Landesregierung zur Verfügung zu stellen; ...*

wohlfahrtspflegerischer Aufgaben”) regulate the intended use and the proof of use since 1956.<sup>14</sup>

- (35) By the „Zweites Gesetz über die Änderung des Gesetzes über das Zahlenlotto“ of 27 May 1968<sup>15</sup>, § 12 para. 1 was modified as follows<sup>16</sup>: 70% of the remaining revenues from lottery and sports betting concession fees (70 % of the remaining amount after deduction of 1/9 from half of the overall revenues [half of the revenues up to an annual maximum amount of DM 19 000 000] from lottery and sports betting concession fees) are provided to the welfare service organisations which joined the *Landarbeitsgemeinschaft* for the fulfilment of their welfare service tasks.
- (36) By the „Drittes Gesetz über die Änderung des Gesetzes über das Zahlenlotto“ of 17 February 1970 which entered into force on 1 January 1970<sup>17</sup> the annual maximum amount of DM 19 000 000 was deleted.
- (37) The Law on Lottery in its version of August 1970 („Gesetz über das Zahlenlotto in der Fassung vom 19.8.1970“)<sup>18</sup> does not contain any modifications with regard to the public funding of the *Spitzenverbände*.
- (38) According to § 7 para. 2 Nr. 2 and § 9 of the Law on Lottery and Betting Activities in Lower-Saxony („Niedersächsisches Gesetz über das Lotteriede- und Wettwesen“ of 21 June 1997 which entered into force on 1 July 1997)<sup>19</sup> the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive 31,2 % of 78,7 % of the earmarked revenues from lottery and betting activities' concession fees.<sup>20</sup> Pursuant to § 7 para. 1 of the same law DM 127 000 000 of the revenues from lottery and betting activities' concession fees are earmarked. The earmarked amount shall not exceed half of the overall revenues from lottery and betting activities' concession fees.

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<sup>14</sup> Nds. MBl. 1956, p. 855. Replaced in 1980 by Richtlinien für die Verwendung der Konzessionsabgaben zur Erfüllung der wohlfahrtspflegerischen Aufgaben, Nds. MBl. 1980, p. 1441; replaced in

<sup>15</sup> Nds. GVBl. 1968, p. 91.

<sup>16</sup> § 12 (1) beinhaltet folgendes: ... Die Hälfte des Aufkommens aus Konzessionsabgaben aufgrund von Zahlenlotto und Sportwetten, höchstens jedoch jährlich der Betrag von DM 19 000 000, ist wie folgt zu verwenden: 1. 1/9 des Aufkommens ... 2. Von dem danach verbleibenden Betrag sind a) 70% den Verbänden, die in der Landesarbeitsgemeinschaft der freien Wohlfahrtspflege zusammengeschlossen sind, zur Erfüllung wohlfahrtspflegerischer Aufgaben nach Richtlinien der Landesregierung zur Verfügung zu stellen, ....

<sup>17</sup> Nds. GVBl. 1970, p. 27.

<sup>18</sup> Nds. GVBl. 1970, p. 312.

<sup>19</sup> Nds. GVBl. 1997, p. 289.

<sup>20</sup> § 7 lautet wie folgt: (1) Ein Teil der Konzessionsabgabe ist nach Maßgabe der Absätze 2 und 3 zweckgebunden zu verwenden. Der zweckgebundene Teil beträgt im Haushaltsjahr 1999 DM 127 000 000 und erhöht sich in jedem Folgejahr um DM 2 800 000. Fällt die Hälfte des Aufkommens aus den Konzessionsabgaben, die für ein Haushaltsjahr abgeführt werden, geringer aus als der sich aus Satz 2 ergebende Betrag, so verringert sich im übernächsten Haushaltsjahr der zweckgebundene Betrag um die Differenz. (2) 78,7 % ... stehen in folgender Aufteilung den jeweils genannten Empfängern als Finanzhilfe zu: ... 2. 31,2 % den Spitzenverbänden, die in der Landesarbeitsgemeinschaft der Freien Wohlfahrtspflege zusammengeschlossen sind zur Förderung wohlfahrtspflegerischer Aufgaben, ...

- (39) By Article 12 of Haushaltsbegleitgesetz 2004 of 12 December 2003 which entered into force on 1 January 2004<sup>21</sup> § 7 para. 2 Nr. 2 and § 9 of the Law on Lottery and Betting Activities in Lower-Saxony („Niedersächsisches Gesetz über das Lotterie- und Wettwesen“) are modified as follows: the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive EUR 20 280 000 of the revenues from lottery and betting activities' concession fees.
- (40) According to § 7 para. 2 Nr. 2 and § 9 of the Law on Lottery and Betting Activities in Lower-Saxony („Niedersächsisches Gesetz über das Lotterie- und Wettwesen in der Fassung von 2005“) the overall amount the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive is reduced to EUR 18 252 000 of the revenues from lottery and betting activities' concession fees.
- (41) According to 14 para. 2 Nr. 1 and § 16 of the Law on Gambling in Lower-Saxony („Niedersächsisches Glücksspielgesetz“ of 17 December 2007 which entered into force on 1 January 2008)<sup>22</sup> the overall amount the welfare service organisations receive is increased to EUR 20 252 000.
- (42) In addition to the EUR 20 252 000 (pursuant to § 14 para. 2 Nr. 1) according to § 14 para. 4 Nr. 1 of the Niedersächsisches Glücksspielgesetz in der Fassung vom 7. Dezember 2012 (entered into force on 1 January 2013), in case the revenues of the *Land* from gambling fees are higher than EUR 146 300 000, the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive 18,63 % of these additional revenues (meaning from the amount going beyond EUR 146 300 000).
- (43) According to § 2 para. 1 Nr. 1 of the Law on the Funding of Welfare Services in Lower-Saxony („Niedersächsisches Gesetz zur Förderung der Freien Wohlfahrtspflege“ of 16 December 2014 which entered into force on 1 January 2015)<sup>23</sup>, which currently applies, the *Land* supports the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* with an amount of EUR 21 252 000. In addition, according to § 2 para. 3 Nr. 1 of the same law, in case the revenues of the *Land* from gambling fees are higher than EUR 146 300 000 (since 1 January 2017: EUR 147 300 000), the *Spitzenverbände* which joined the *Landesarbeitsgemeinschaft* receive 18,63 % of these additional revenues (meaning from the amount going beyond EUR 146 300 000/EUR 147 300 000).
- (44) According to the German authorities it follows from the provisions described above that the measure - although there have been legislative changes over the years - has not undergone substantive changes since its introduction in 1956.
- (45) The complainant however alleges that there have been two substantive changes to the measure due to legislative changes in 1997 and 2015 and therefore the measure would since then constitute new aid.

First, the complainant alleges that the entry into force of the Law on Lottery and Betting Activities in Lower-Saxony („Niedersächsisches Gesetz über das

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<sup>21</sup> Nds. GVBl. 2003, p. 446.

<sup>22</sup> Nds. GVBl. 2007, p. 756.

<sup>23</sup> Nds. GVBl. 2014, p. 429.



Lotterie- und Wettwesen“ of 21 June 1997 which entered into force on 1 July 1997) constitutes a substantive change to the measure as the welfare service organisations since then received a lump sum instead of 70 % of the revenues from lottery and betting concession fees (after deduction of 1/9 of the overall revenue income from lottery and betting concession fees). Therefore, according to the complainant, the measure would constitute new aid.

Second, the complainant alleges that the entry into force of the Law on the Funding of Welfare Services in Lower-Saxony (“Niedersächsisches Gesetz zur Förderung der Freien Wohlfahrtspflege” of 16 December 2014 which entered into force on 1 January 2015) constitutes a substantive change to the measure as the public funding which the welfare service organisations receive derives (if at all) only in parts from lottery revenues but mainly from the budget of the *Land*.

- (46) Contrary to the complainant, the Commission considers that since its introduction in 1956 no substantive changes have been made to the measure and therefore the measure constitutes existing aid.
- (47) Firstly, no changes have been made to the measure as regards the purpose of the public funding, meaning the funding for the provision of social services. Moreover, the beneficiaries of the measure have not changed.
- (48) Furthermore, with regard to the complainant’s first allegation, it follows from the statements above that the change from a certain percentage to a lump sum was not done in 1997 but in 2004. This change does not constitute a substantive one. This follows from the grounds of the law (“Gesetzesbegründung”). The modification does not change the basic right of the welfare service organisations to public funding for the social services. The change only affects the amount of public funding and led to a decrease of public funding for welfare service organisations.<sup>24</sup>
- (49) Finally, contrary to the complainant’s second allegation, the Commission considers that the nature and source of the compensation have not changed with the entry into force of the Law on the Funding of Welfare Services in Lower-Saxony in 2015. The source of the funding has always been the budget of the *Land* Lower-Saxony as the betting operators have always been obliged to pay the concession fees to the *Land*<sup>25</sup>.
- (50) Consequently, the Commission concludes that the changes described above are of purely formal or administrative nature and cannot be considered as an alteration to existing aid within the meaning of Article 4 of Regulation 794/2004. Therefore the measure constitutes, in so far it constitutes aid, an existing aid within the meaning of Article 1 (b) (i) of Regulation (EC) No 2015/1589.
- (51) In any event, the Commission takes note that the German authorities have committed by letter of 16 November 2016 to make the measure compliant with the 2012 SGEI Decision for the future.

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<sup>24</sup> See grounds of the law, Article 11 of Haushaltsbegleitgesetz 2004, LT-Drs. 15/388.

<sup>25</sup> § 13 para. 1 Niedersächsisches Glücksspielgesetz; replacing § 6 para. 1 Niedersächsisches Gesetz über das Lotterie- und Wettwesen; replacing § 12 para. 1 Gesetz über das Zahlenlotto in der Fassung von 1970; replacing § 11 para. 1 Gesetz über das Zahlenlotto von 1956.

## 6. CONCLUSION

In light of the foregoing assessment, the Commission decides that the measure described is, in so far as it constitutes aid, existing aid within the meaning of Article 1 (b) (i) of Regulation (EC) No 2015/1589. Therefore the Commission rejects the complaint with regard to the above measure.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission