



EUROPEAN COMMISSION

Brussels, 13.7.2020
C(2020) 4883 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.57930 (2020/N) – Denmark
Temporary targeted compensation scheme for companies affected by
COVID-19 related prohibitions**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 6 July 2020, registered by the Commission on the same day, Denmark notified the above-mentioned scheme (“the measure”), in compliance with Article 108(3) of the Treaty on the Functioning of the European Union (TFEU).
- (2) Denmark exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,¹ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) In the context of the COVID-19 outbreak and developments, since 6 March 2020 Denmark has adopted numerous recommendations and prohibitions to citizens, private undertakings and the public sector, suspending all activities that were not essential and imposing restrictions of gathering and of movement to avoid the spread of the virus.

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

Mr. Jeppe KOFOD
Ministry of Foreign Affairs
Asiatik Plads 2 DK-1448 Copenhagen

- (4) The Danish authorities established in March 2020 a compensation scheme for companies significantly affected by the COVID-19 outbreak and the following containment and lockdown measures, covering the period from 9 March to 8 June 2020. The scheme was adjusted and extended up to and including 8 July 2020².
- (5) In the context of the gradual reopening of the Danish society, the Danish authorities have decided to let this scheme expire on 8 July 2020. However, as some targeted prohibition measures have been upheld in order to continue efforts to limit the spread of the virus beyond this date and until 31 August 2020 - mainly the total prohibition of opening for some activities and cancellation of large events (gathering more than 500 persons)³ - many businesses are still significantly affected by the remaining prohibition and containment measures, leading to a partial or full non-utilisation of their facilities or services. Such a situation could, without support, lead to many bankruptcies.
- (6) The Danish authorities have therefore decided to establish and notify a new temporary and targeted compensation scheme for the companies still affected by these measures. The scheme will cover the period from 9 July 2020 up until maximum 31 August 2020.

2.1. Legal basis

- (7) The legal basis for the measures is the Danish budget law and its implementing provisions⁴.

2.2. Objective of the measure

- (8) The objective of the measure is to compensate companies for damage caused by the COVID-19 outbreak and the remaining prohibition and containment measures adopted to face the health crisis. In such a situation, the damage consists in the difference between the profit/loss incurred during the COVID-19 outbreak and governmental measures and the profit/loss incurred before these events (net losses). The current losses suffered by the companies has put them temporarily in economic lack of liquidity resulting in difficulties of covering their fixed costs. Therefore, the damage compensation will in a first step, be temporarily paid out in the form of a partial or full coverage of the fixed costs which the companies still have to bear during the period where prohibition and containment measures applicable to them are in force; in a second step the amount of compensation paid out to the beneficiary will be compared to the actual net loss incurred, and any overcompensation will be recovered.

² SA.56774, decision C(2020) 2294 final of 8 April 2020, amended by SA.57151, decision C(2020) 3041 final of 5 May 2020.

³ <https://politi.dk/en/coronavirus-in-denmark/latest-news-and-hotlines/agreement-on-reopening-plan-for-the-danish-society>

⁴ Bevilling på Finansloven; Aktstykke n° 259 § 08.32.21.40 Kompensations ordinger som følge af COVID-19.

2.3. Budget and duration of the measure

- (9) The Danish authorities confirm that the estimated budget amounts, at this stage, to DKK 1.1 billion (around EUR 148 million⁵) for the period from 9 July until 31 August 2020, which is the envisaged compensation period.
- (10) For the companies suppliers for large events, i.e. contractors of organizers of such events⁶, the duration of the compensation will be until 31 August 2020, which is the period until when those events are prohibited. For the companies still subject to a total ban (for example nightclubs, discotheques and venues designed for standing crowds), the duration of the compensation will be until 31 August 2020, provided the ban is prolonged after the current end date of 8 August 2020 until that date, which is the intention of the Danish authorities. Should the ban not be prolonged beyond 8 August 2020, no compensation could be granted beyond that date for those beneficiaries. The Danish authorities committed to inform the Commission, should the ban eventually not be prolonged until end of August.
- (11) Companies can apply for compensation under the measure until 30 November 2020. No aid may be granted under the measure before its approval by the Commission.

2.4. Geographical scope

- (12) The scheme applies to undertakings registered in Denmark as detailed in recital (15).

2.5. Form of aid

- (13) The aid will take the form of direct grants. It will be financed through the national budget.

2.6. Administration of the measure

- (14) The measure will be managed by the Danish Business Authority.

2.7. Beneficiaries

- (15) The beneficiaries are private legal entities in Denmark, registered in the Danish Central Business Register (CVR) and public entities having an economic activity, provided they are covered by a prohibition from opening under the administrative order n° 687 of 27 May 2020 or later related regulations issued by the Ministry of Health; or whose activity is related to a large event which has been cancelled following Recommendation of 6 March 2020 and later regulations.
- (16) Companies under an outstanding State aid recovery order are excluded from the scheme.

⁵ Exchange rate DKK 1= EUR 0.134, on 6 July 2020.

⁶ The organizers themselves are not covered by this scheme, but by the approved scheme SA. 56856, C(2020) 1698 final of 12 March 2020, as amended by Decision SA.57209, C(2020) 3384 final of 18 May 2020.

- (17) The estimated number of beneficiaries is approximately 2.000 companies.

2.8. Basic elements of the measure

- (18) As described above (recital (8)), the objective of the measure is to compensate companies for damage resulting from the COVID-19 outbreak and the remaining respective prohibition and containment measures that prevent them from carrying out their economic activities. For the purposes of this scheme, Denmark set up the following two-step approach for calculating the compensation for such damage:
- (19) First, companies are only eligible if they suffer a decline of turnover resulting from the relevant governmental measures that reaches or exceeds 35% from 9 July to 31 August 2020 compared to a reference period (from 9 July to 31 August 2019).
- (20) Beneficiaries must document that the decline of turnover is linked to the governmental measures, i.e. to the full prohibition from opening, or, for the suppliers of goods or services for large events cancelled or postponed as a result of the COVID-19 outbreak, to the prohibition of large gatherings until 31 August 2020. In this latter case, the calculation of turnover decline will be limited to that directly related to a specific event cancelled or postponed in the compensation period, based on contracts and/or invoices. The methodology described below in recital (23) for calculation of the compensation will thus be applied only to the company's activities related to the cancelled events as a result of the prohibition of large gatherings and compensation will only be granted for a proportion of the company's fixed costs in relation to these sole activities.
- (21) The Danish authorities acknowledge that the turnover decline is in general not a sufficient reference for the damage suffered (as opposed to net losses). However, in their view, turnover decline is one of the readily available elements for calculating the amount of the compensation on an ex ante basis while the actual damage suffered will be verified ex post (see recitals (29) and (30)).
- (22) Second, the compensation will be calculated by reference to the companies' fixed costs, including rent, interest expenses and non-negotiable contract-related expenses (e.g. leasing) during the period from 9 July to 31 August 2020.
- (23) Rather than a precise calculation of the net losses suffered by each company as a result of COVID-19 outbreak and remaining prohibition and containment measures, the measure at stake provides for a method to determine the amount to be compensated, based on the available elements (turnover decline and fixed costs) and along a progressive scale:

Decline in turnover (vs turnover in same period 2019)	Level of compensation (in percentage of fixed costs)
35 % - 40 %	25 %
40 % - 45 %	30 %
45 % - 50 %	35 %
50 % - 55 %	40 %
55 % - 60 %	45 %
60 % - 65 %	50 %
65 % - 70 %	55 %
70 % - 75 %	60 %
75 % - 80 %	65 %
80 % - 85 %	70 %
85 % - 90 %	75 %
90 % - up to 100%	80 %
100% ⁷	100 %

For the undertakings under a prohibition to open, the scale might be irrelevant and compensation will probably be of 100 % of the fixed costs in the period where the prohibition applies, provided the company has no alternative source of turnover during the period.

- (24) The aid application to the Danish Business Authority must include an auditor's statement of the eligible costs for which the company applies for compensation.⁸ Only companies that have a minimum of fixed costs of DKK 8,000 (around EUR 1,075) can benefit from the measure. The aid application also includes a solemn declaration of the company stating the decline in turnover compared to turnover in the same period last year and justifying the link between the decline in turnover and the COVID-19 outbreak and consequent prohibition and containment measures.
- (25) A maximum compensation of DKK 60 million (approx. EUR 8 million) can be granted per company for the period.

⁷ This concerns only companies which had to close down under temporary government ban.

⁸ The company's costs for auditor's assistance with preparing the mandatory audit statements for the application can be covered up to 80 % with a maximum of DKK 16,000 (around EUR 2,150).

(26) The Danish authorities confirmed that:

- The Danish Business Authority will control and make sure that compensation will only be granted in relation to turnover decline that is a direct and documented consequence of the COVID-19 outbreak and the remaining prohibition and containment measures taken to prevent the COVID-19 outbreak.
- Payment made to beneficiaries shall be net of any amount obtained from insurance, litigation, arbitration or any other source for the same damage. If the aid is paid out before the insurance, the authorities will recover the insurance amount from the beneficiary.
- The benefit of the aid is excluded for any applicant who is responsible for the damage suffered and/or did not conduct his activities with due diligence or in compliance with applicable legislation or did not take any measure within its responsibility to mitigate its damage.
- Additionally, they will ensure that beneficiaries repay any over-compensation, should the ex-post assessment (recitals (29) and (30)) show that the total aid received by an individual beneficiary to compensate the damage caused by the COVID-19 outbreak exceeds the total amount of the damage suffered by the beneficiary.

2.9. Cumulation

(27) The Danish authorities confirmed that the aid provided for under this measure cannot be cumulated with other State aid granted for the same damage or the same eligible costs. In particular, self employed companies suppliers of goods and services for events that have been cancelled because of Recommendation of 6 March 2020 and later regulations prohibiting large gatherings will not benefit from this compensation scheme, as they are covered by another measure.⁹

2.10. Monitoring and reporting

(28) The Danish authorities committed to provide a report no later than one year after the date of the Commission decision, specifying the amount of compensation granted per company and overcompensation recovered, as the case may be.

2.11. Commitment form the Danish authorities

(29) The Danish authorities commit to carry out an ex-post control by calculating the actual net losses (damage) and comparing these losses to the compensation paid ex-ante. The precise methodology for such an ex-post control will be defined later and sent to the Commission for approval before 31 December 2020¹⁰. The controls will be carried out no later than 31 July 2021.

⁹ SA.57920.

¹⁰ This methodology will be the same as the one foreseen in SA.56774, as amended by SA.57151.

- (30) The Danish authorities also commit to ensure that beneficiaries repay any overcompensation, should the ex post assessment show that the total aid received by an individual beneficiary to compensate the damage caused by the COVID-19 outbreak exceeds the total amount of the damage suffered by the beneficiary.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (31) The Danish authorities have fulfilled their obligation according to Article 108(3) TFEU by notifying the aid measure before putting it into effect. The Commission takes note of the fact that the scheme will enter into force only after approval by the Commission.

3.2. Existence of State aid

- (32) Article 107(1) TFEU defines State aid as ‘any aid granted by a Member State 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 Member States’.
- (33) The qualification of a measure as aid within the meaning of that provision therefore requires that the following cumulative conditions be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (34) As the measure is based on the legislative acts mentioned in recital (7), it is imputable to the State (recital (14)). The compensation envisaged by Denmark will be paid from the State budget and is therefore provided through State resources within the meaning of Article 107(1) TFEU (recitals (7) and (9)).
- (35) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (13)). The measure thus relieves those beneficiaries of costs that they would have to bear under normal market conditions. The advantage corresponds to the amount of compensation paid under the scheme.
- (36) Since the compensation will not be granted to all operators in a comparable legal and factual situation but only to certain undertakings as described in recital (15), the measure is selective.
- (37) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. As the scheme covers sectors and undertakings involved in trade between Member States, there is a risk that the aid could affect such trade.
- (38) The proposed measure therefore constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (39) The Commission has examined the notified scheme pursuant to Article 107(2)(b) TFEU.

The notion of exceptional occurrences with the meaning of Article 107(2)(b) TFEU

- (40) Article 107(2)(b) TFEU stipulates that aid to make good damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Neither the TFEU, nor other Union legislation contains a precise definition of the notion of exceptional occurrence. As they constitute exceptions to the general prohibition of State aid within the internal market laid down in Article 107(1) TFEU, the Commission, in line with the consolidated Union case-law¹¹ has consistently held that the notions of ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2)(b) TFEU must be interpreted restrictively.
- (41) The characterization of an event as being an exceptional occurrence is made by the Commission on a case-by-case basis, having regard to its previous practice in the field¹². In this regard, the following indicators relating to the event concerned must be cumulatively met: (i) unforeseeable or difficult to foresee¹³; (ii) significant scale/economic impact¹⁴, and (iii) extraordinary¹⁵.

¹¹ Judgement of the Court of Justice of 11 November 2004, *Spain v. Commission*, C-73/03, ECLI:EU:C:2004:711, paragraph 37 and judgment of the Court of Justice of 23 February 2006, *Giuseppe Atzeni and others*, in joined cases C-346/03 and C-529/03, ECLI:EU:C:2006:130 paragraph 79.

¹² Exceptional occurrences which have been accepted in the past by the Commission include war, internal disturbances and strikes, and, with certain reservations and depending on their extent, major industrial accidents which result in widespread economic loss, see *Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020*, paragraph 330 (OJ C 204, 1.07.2014, p. 53).

¹³ Commission Decision of 1 August 2008, case SA.32163, Remediation of damage to airlines and airports caused by seismic activity in Iceland and the volcanic ash in April 2010, Slovenia, recital 31.

¹⁴ Elements taken into account by the Commission to consider that the occurrence reached a significant scale: negative consequences cannot be contained (Commission Decision of 4 October 2000 on case NN 62/2000, Régime temporaire d'aides aux entreprises victimes des intempéries et de la marée noire –France), or because of the number of dead or injured people (Commission Decision of 11 April 2012 on case SA.33487, Agricultural and fisheries aid to compensate for damage due to exceptional occurrence (red mud "Aluminium accident"), Hungary, recital 35; Commission Decision of 2 May 2002 on case N241/2002, Régime en faveur des entreprises victimes de la catastrophe industrielle de Toulouse, France, recital 19), the immense ecological and economic damage (Commission Decision of 11 April 2012 on case SA.33487, recital 36), the amount of material damage despite the local character of the industrial accident (Commission Decision of 2 May 2002 on case N 241/2002, recital 19).

¹⁵ In its Decision of 19 May 2004 in case C-59/2001 (OJ L 62, 2007, p. 14), the Commission considered that the (alleged) fall in sales of poultry meat in a Member State not directly affected by the dioxin contamination, did not constitute in itself an exceptional occurrence. It was yet an unforeseeable event, but formed part of the normal commercial risks to which an undertaking is exposed.

COVID-19 outbreak as an exceptional occurrence

- (42) Following the first reports of cases of acute respiratory syndrome (COVID-19) in the Chinese Wuhan municipality at the end of December 2019, the Chinese authorities identified a novel coronavirus (SARS-CoV-2) as the main causative agent, which had not been previously identified in humans. The outbreak has rapidly evolved, affecting not only other parts of China but has also spread to the majority of countries worldwide, including all Member States. Outbreaks of novel virus infections among people are always of public health concern and can have a significant economic impact. Specific sectors and areas are particularly affected by the outbreak, be it because of national outbreak control measures, travel restrictions or supply chain disruptions.
- (43) The declaration of the World Health Organization of a pandemic associated with the public health risk deriving from the absence of therapeutics or vaccines for the COVID-19, determine the exceptional nature of the circumstances. The rapidity of the spread can cause enormous consequences both in terms of fatal outcomes in high-risk groups and in terms of economic and societal disruption. The necessity to adopt and encourage the respect of measures aimed at interrupting transmission chains stems from this acknowledgement. Such measures can result in far-reaching disruption of various economic sectors, which is clearly outside the normal functioning of the market.
- (44) In view of the above, this event qualifies as an exceptional occurrence because: (i) it was not foreseeable; (ii) it clearly distinguishes itself from ordinary events by its character and effects on both the undertakings directly affected and the economy as a whole; and (iii) it lies outside of the normal functioning of the market.
- (45) In that context, the COVID-19 outbreak can be considered as an exceptional occurrence within the meaning of Article 107(2)(b) TFEU.

Causal link between the COVID-19 outbreak and the damage compensated by the measure

- (46) As an immediate consequence of the COVID-19 outbreak in Denmark, the Danish authorities have adopted various prohibition and containment measures¹⁶ to limit the spread of the virus. In spite of the progressive reopening of the Danish society, some prohibitions remain necessary to limit potential resurgence of the epidemic due to mass gatherings: these remaining restrictive measures are in particular the full closure for discotheques, music venues and night life until 8 August 2020, which is likely to be prolonged until 31 August 2020, and the ban on large events and activities with more than 500 participants until 31 August 2020 (see recital (5)). These restrictive measures have had an immediate impact on both demand and supply, and result in a significant reduction of the turnover of the undertakings affected (compared to a reference period as described in recital (19)).

¹⁶ Amongst others: As of 6 March, large events and activities implying mass gatherings were cancelled. As of 17 March 2020, a temporary prohibition was issued, including e.g. the closure of nightclubs, pubs, restaurants, cafes, malls, sports and leisure activities, special demands for retail.

- (47) The damage for which a company can be compensated will be limited to damage directly linked to the COVID-19 outbreak and prohibition and containment measures. The compensation period will not exceed 31 August 2020 for undertakings, which are suppliers of large events. For undertakings covered by a prohibition from opening, it will not exceed 8 August 2020 (the current end date of those measures) or end of August 2020 (if the validity of the measures to prevent the reopening of those activities is prolonged until then). In their application for damages, companies must justify the direct link between the damage claimed and such measures, as recalled in recital (20).
- (48) The actual damage suffered by those undertakings and deriving from the exceptional occurrence is the difference between the profit/loss incurred in the relevant period of the COVID-19 outbreak and related governmental measures and the profit/loss incurred in the reference period (net losses).
- (49) Only beneficiaries for which it is possible to establish a direct link between the damage suffered and the COVID-19 outbreak and the remaining prohibition and containment measures seeking to mitigate and combat COVID-19, will be entitled to compensation. As mentioned in recital (24), undertakings must solemnly declare and show in their application that their decline in turnover is linked directly to the outbreak of the COVID-19 and the subsequent prohibition and containment measures adopted by the public authorities. That declaration is subject to the scrutiny of the auditors (recital (24)). The aid application must clearly refer to the prohibition of opening directly affecting the beneficiary or to the event cancelled or postponed due to the ban of large events until 31 August 2020. It also includes the justifications of the direct impact of these measures on the turnover decline and the auditors' statement. The application is subject to the ex-ante review and ex-post control of the Danish Business Authority (recitals (24) and (26)).

Proportionality of the aid measure

- (50) In order to be compatible with Article 107(2)(b) TFEU, the aid must be proportional to the damage caused by the exceptional occurrence. Aid must not result in overcompensation of damage; it should only make good the damage caused by the exceptional occurrence.
- (51) As described in recital (46), the actual damage of those companies concerned is the difference between the profit/loss incurred during the COVID-19 outbreak and governmental measures and the profit/loss incurred before these events (net losses). In the light of the exceptional circumstances, such as the large amount of beneficiaries and the urgent need for a support measure simple to implement, the Commission can accept that the calculation of the amount of the damage to be compensated is calculated in a first stage based on available elements, i.e. on the formula based on a decline of turnover, on the one hand, and a share of the fixed costs companies continue to bear, on the other. In addition, the national authorities will check in each case that those elements correctly reflect the direct consequences of the COVID-19 outbreak and the related measures by public authorities. In particular the Commission notes that in the case of undertakings suppliers of goods and services for cancelled or postponed events, the calculation of turnover decline will be limited to that directly related to a specific event cancelled or postponed in the compensation period, based on contracts, invoices and not on the total turnover decline during the period, which could result from

other causes than the COVID 19 related measures. For these undertakings, the calculation of the compensation will thus be applied only to the companies' activities strictly related to the cancelled events and compensation will only be granted in relation to these activities.

- (52) The Danish authorities have put in place the following safeguards, so that the compensation under the notified measure does not exceed what is necessary to make good the damage:
- (53) The period for damage is limited to the period for which a beneficiary can prove a direct causal link in regard to its own situation, it covers the period from 9 July to 31 August for the suppliers of cancelled events, and for the undertakings under a prohibition from opening, the period from 9 July to 8 August 2020, or end of August 2020 should the measure preventing the companies from carrying out their activities is maintained and cannot in any event go beyond this date (recitals (9) and (10));
- (54) The amount of compensation, as calculated in line with the table presented in recital (23), reflects a percentage of the fixed costs, where those fixed costs are unlikely to be avoided over the limited compensation period;
- (55) Aid received under the measure cannot be cumulated with other aid for the same damage or the same eligible costs (recital (27)). Any payment made to beneficiaries is net of any amount recovered by insurance, litigation, arbitration or other source of compensation for the same damage. In addition, as explained in recital (26) there is an exclusion of any applicant responsible for the damage suffered, or that did not conduct its activities with due diligence or in compliance with applicable legislation, or that did not take any measure to mitigate its damage;
- (56) As described in recital (24) of this Decision, the aid application to the Danish Business Authority must include an ex ante auditor's statement of the eligible costs for which the company applies for compensation. Applications need to be accompanied by the relevant evidence, verified by the Danish Business Authority:
- all fixed costs presented have to be audited, and shall not be covered by an insurance policy;
 - the link between the turnover decline and the COVID-19 outbreak has to be justified;
- (57) As indicated in recital (25), the compensation will be capped to maximum DKK 60 million (EUR 8 million).
- (58) At last, the Danish authorities committed to design and validate with the Commission before 31 December 2020 a precise methodology for the ex-post control to calculate the actual damage and avoid any overcompensation.
- (59) The Commission, in light of those safeguards, and taking into account the limited period covered by the compensation, considers that the compensation under the scheme will not exceed the damage directly suffered by each beneficiary from the COVID-19 outbreak and remaining related measures by public authorities.

- (60) To the extent that the scheme applies in the sectors of primary production of agricultural products, fishery and aquaculture, which are not excluded de jure from the scope of the scheme, the Commission recalls that it adopted guidelines on the interpretation of Article 107(2)(b) TFEU in those sectors¹⁷. Those guidelines reflect the general principles of interpretation of Article 107(2)(b) TFEU. As already recalled, that provision must be subject to a narrow interpretation (recitals (40) and (41)). It applies in situations of exceptional occurrence; in the present case, the Commission concludes in this decision that the COVID-19 outbreak constitutes such an exceptional occurrence (recitals (42) to (45)). The present scheme aims at compensating the damage resulting from the exceptional occurrence. The aid benefits directly each undertaking concerned. The scheme is established shortly after the date of the occurrence of the event, for a period still covered by governmental restrictive measures and the aid must be applied for by 30 November 2020 for damage suffered until 31 August 2020 for large events and until the date of the lifting of the prohibition and containment measures for other sectors covered by the scheme as described in recitals (9) and (10)). It therefore meets the conditions in those Guidelines which require that the aid scheme must be established within three years from the date of the occurrence of the event and that the aid must be paid out within four years of that date. Damage that will be open to compensation must be directly linked to the exceptional occurrence and compensation cannot exceed the damage suffered by the company individually. The methodology for setting the amount of the compensation ensures that it is directly linked to the damage suffered by each company as a result of the exceptional occurrence (recital (24)); it is calculated by comparing the decline in turnover during the compensation period to a reference period before the event, and applying to it a formula, on the basis of audited statements ensuring that the aid remains proportionate and that no company could benefit from overcompensation (recitals (24) to (26)). The Commission therefore considers that the scheme, to the extent it applies in the sectors of primary production of agricultural products, fishery and aquaculture, fulfils the conditions of those guidelines and is compatible with Article 107(2)(b) TFEU.
- (61) In view of the above, the Commission considers that the notified aid scheme is compatible with the internal market in accordance with Article 107(2)(b) TFEU.

¹⁷ Commission Communication – European Union guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 – 2020 (consolidated version) OJ C 204, 1.7.2014, p. 1. Amendments to the Guidelines: OJ C 390, 24.11.2015, p. 4 - OJ C 139, 20.4.2018, p. 2 - OJ C 403, 9.11.2018, p. 10
Commission Communication — Guidelines for the examination of State aid to the fishery and aquaculture sector (consolidated version) - original version OJ C 217, 2.7.2015, p. 1. Amendments to the Guidelines: OJ C 422, 22.11.2018, p. 1

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(2)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President