EUROPEAN COMMISSION

Brussels, 14.7.2020
C(2020) 4945 final

PUBLIC VERSION
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Subject: State Aid SA. 57931 (2020/N) – Denmark
COVID-19: Limited amounts of aid scheme for undertakings under restrictive measures (prohibition lifted from 8 June or later)

Excellency,

1. PROCEDURE

(1) By electronic notification of 6 July 2020, Denmark notified aid in the form of limited amounts of aid (Limited amounts of aid scheme for undertakings under restrictive measures (prohibition lifted from 8 June or later), “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).1 On 9 July, Denmark submitted additional information.

(2) Denmark exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/19582 and to have this Decision adopted and notified in English.

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

Udenrigsminister Jeppe KOFOD
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2. DESCRIPTION OF THE MEASURE

(3) Denmark considers that the COVID-19 outbreak has started to affect the real economy. Following a period of strict prohibitions and containment measures adopted since March 2020, the Danish authorities have taken steps to gradually reopen the Danish society. In the context of this progressive reopening, Denmark has started, from 8 June 2020, a partial softening of the total ban prohibition in place for certain sectors to limit the effect of the Covid-19 outbreak. However, as the Covid-19 pandemic is still present, some restrictive measures have been upheld in order to continue efforts to limit the spread of the virus.

(4) The remaining Covid-19 restrictions have direct consequences on the companies affected by them, as strict Covid-19 health and safety restrictions have significant negative impact on their ability to run profitably.

(5) The notified measure, which forms part of an overall package of measures during and after the outbreak will contribute to ensuring that sufficient liquidity remains available for these companies facing the remaining Covid-19 restrictions. Thus, the aim is to ensure that the disruptions caused by the outbreak and the restrictive health measures do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

(6) Denmark confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(7) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

(8) The measure provides aid in the form of direct grants financed by the Danish state budget.

2.2. Legal basis

(9) The legal basis for the measure is a direct Act on the Danish Budget Law and implementing measure.3

2.3. Administration of the measure

(10) The Danish Business Authority is responsible for administering the measure.

2.4. Budget and duration of the measure

(11) The estimated budget of the measure is DKK 200 million (approx. EUR 27 million4).

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3 Aktstykke § 08.32.21.40 Kompensationsordninger som følge af COVID-19

4 Exchange rate 8/7/2020 : DKK 1 = EUR 0.134
Aid may be granted under the measure in the period from 9 July 2020 to 31
August 2020. Companies can submit application for compensation until no later
than 30 September 2020. Aid may be granted as from its approval by the
Commission until no later than 31 December 2020.

2.5. Beneficiaries

The final beneficiaries of the measure are private legal entities in Denmark,
registered in the Danish Central Business Register (CVR) and public entities
having an economic activity, provided they were 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, and for whom the prohibition of
being open has been lifted on 8 June 2020 or later but which are now exposed to
safety and health measures.

In order to be eligible under the scheme the beneficiary must document a decline
in turnover of at least 35 per cent compared to the same period last year (July-
August 2019). It must also demonstrate that it has fixed costs amounting to a
minimum of DKK 4 000 for the period 9 July to 31 August 2020.

All types of companies can apply under the scheme.

Aid may not be granted under the measure to medium and large enterprises that
were already in difficulty within the meaning of the General Block Exemption
Regulation (“GBER”) on 31 December 2019. Aid may be granted to micro and
small enterprises that were in difficulty within the meaning of the GBER on 31
December 2019, if those enterprises, at the moment of granting the aid, are not
subject to collective insolvency procedure under national law and they have not
received rescue aid or restructuring aid.

The estimated number of beneficiaries is approximately 1 600 Danish companies.

2.6. Sectoral and regional scope of the measure

The measure is open to all sectors except agriculture, fisheries and aquaculture
sectors as well as the financial sector. It applies to the whole territory of
Denmark.

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5 As defined in Annex I to 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

6 As defined in Article 2(18) of 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

7 Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the
guarantee at the moment of granting of the aid under the notified measure.

8 Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan
at the moment of granting of the aid under the notified measure.
2.7. Basic elements of the measure

(19) The aid will be provided in the form of a direct grant to the beneficiary with the aim to mitigate immediate liquidity problems for the undertakings concerned and to avoid future bankruptcies caused by Covid-19.

(20) The aid amount is calculated as a percentage of the fixed costs borne during the period 9 July to 31 August, the percentage being determined progressively depending on the level of the turnover decline, all figures being audited for the aid application to be treated by the Danish Business Authority. The overall aid does not exceed the equivalent in DKK of EUR 800 000 under the scheme for the period 9 July to 31 August 2020.

2.8. Cumulation

(21) The Danish authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations9 or the GBER provided the provisions and cumulation rules of those Regulations are respected.

(22) The Danish authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected. However, they confirm that aid granted under the notified scheme cannot be cumulated with other Danish schemes approved by the Commission under other sections of the Temporary Framework or related to COVID-19 outbreak, such as schemes approved under Article 107(2)(b) or 107(3)(b) for the same eligible costs.

(23) The Danish authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

(24) The Danish authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting).

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3. **ASSESSMENT**

3.1. **Lawfulness of the measure**

(25) By notifying the measure before putting it into effect, the Danish authorities have respected their obligations under Article 108(3) TFEU.

3.2. **Existence of State aid**

(26) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(27) The measure is imputable to the State, since it is administered by the Danish Business authorities and it is based on the Danish budget law (recitals (9) and (10)). It is financed through State resources, since it is financed by the State general budget (recital (8)).

(28) The measure confers an advantage on its beneficiaries in the form of grants (recital (8)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(29) The advantage granted by the measure is selective, since it is awarded only to certain sectors and certain undertakings, in particular undertakings subject to a total prohibition from opening until 8 June 2020 and currently subject to restrictive health measures (recitals (13) to (18)).

(30) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(31) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

3.3. **Compatibility**

(32) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(33) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “to remedy a serious disturbance in the economy of a Member State”.

(34) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”. The Commission concluded that “State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by
undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”.

(35) The measure aims at ensuring that sufficient liquidity remains available for these companies facing the remaining Covid-19 restrictions and preserve the viability of these undertakings.

(36) The measure is one of a series of measures conceived at national level by the Danish authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve the viability of the concerned undertakings is, combined with other targeted measures, necessary in the phasing out of the lockdown measures across the entire Danish economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of grants”) described in section 3.1 of the Temporary Framework.

(37) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid takes the form of grants (recital (8));
- The overall nominal value of the grants shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (20)). The measure therefore complies with point 22(a) of the Temporary Framework.
- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (11). The measure therefore complies with point 22(b) of the Temporary Framework;
- Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid or restructuring aid (see recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
- Aid will be granted under the measure no later than 31 December 2020 (recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework.

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11 Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

12 Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.
The Danish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recitals (24) and (25). The Danish authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (21) to (23)).

The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

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(3)(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