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**Subject: State Aid SA.57741 (2020/N) – Germany  
COVID-19: Aid in the form of guarantees on vouchers issued for  
package tours**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 17 July 2020, Germany notified *aid in the form of guarantees on vouchers issued for package tours* (“the measure” or “the scheme”) under Article 107(3)(b) of the Treaty on the Functioning of the European Union (‘TFEU’).
- (2) Germany exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958<sup>1</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE MEASURE

- (3) According to the German authorities, the COVID-19 outbreak had an impact on the turnover of travel providers already in the first quarter of 2020. According to reports from the Federal Statistical Office (Destatis), sales in the travel agencies and tour operators sector as well as other reservation services declined by around 23% in seasonally adjusted terms compared to the previous quarter. This is the

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

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biggest drop in sales in the travel industry since 2008.<sup>2</sup> The German authorities estimate that revenues of the travel industry in Germany decreased by EUR 10.8 billion by the end of June 2020.

Due to the COVID-19 outbreak, the German Federal Foreign Office issued a worldwide travel warning that lasted until 15 June 2020. The current travel warnings particularly still apply to non-European countries. Because of these travel warnings, numerous package tours have been cancelled.

- (4) Germany considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (5) The measure is notified directly under Article 107(3)(b) TFEU following the Recommendation on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic adopted by the Commission on 13 May 2020.<sup>3</sup> The Recommendation incentivises Member States to guarantee vouchers issued by operators in the travel and transport sectors, with the aim to make vouchers more attractive, as an alternative to reimbursement in money, and to increase their acceptance by travellers. The Recommendation stresses that such schemes help to ease the liquidity problems of carriers and organisers and could ultimately lead to better protection of the interests of travellers.

## 2.1. The nature and form of aid

- (6) The measure provides aid in the form of guarantees on vouchers issued to travellers who booked package tours prior to 8 March 2020 that had to be cancelled because of the COVID-19 outbreak. The voucher is granted for an amount corresponding to the payment made by the traveller concerned.

## 2.2. Legal basis

- (7) The legal basis for the measure is an act to mitigate the consequences of the COVID-19 outbreak in package travel contract law [*Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Pauschalreisevertragsrecht*].<sup>4</sup> The act will enter into force once the Commission has approved the scheme. The act sets out

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<sup>2</sup> See: [https://www.destatis.de/DE/Presse/Pressemitteilungen/2020/06/PD20\\_N028\\_474.html](https://www.destatis.de/DE/Presse/Pressemitteilungen/2020/06/PD20_N028_474.html).

<sup>3</sup> Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, OJ L 151, 14.5.2020, p. 10-16, ELI: <http://data.europa.eu/eli/reco/2020/648/oj>.

<sup>4</sup> Full title: „*Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Pauschalreisevertragsrecht und zur Sicherstellung der Funktionsfähigkeit der Kammern im Bereich der Bundesrechtsanwaltsordnung, der Bundesnotarordnung, der Wirtschaftsprüferordnung und des Steuerberatungsgesetzes während der COVID-19-Pandemie*“

the conditions under which vouchers issued by travel organisers are guaranteed by the State.

### **2.3. Administration of the measure**

- (8) The granting authority is the Federal State. The body responsible for the reimbursement process in case the guarantee is called on is the Federal Ministry of Justice and Consumer Protection, which may allocate the task to the Federal Office of Justice.

### **2.4. Objective**

- (9) The measure pursues the objectives of preventing an excessive liquidity outflow for organisers of package tours because of the COVID-19 outbreak, of ensuring their economic survival, and of ensuring the recoverability of consumers' claims to reimbursement of their advance payments in case the organiser (issuer of the voucher) goes bankrupt.

### **2.5. Budget**

- (10) The budget of the measure is EUR 840 million. According to estimates by the travel industry at the end of April 2020, advance payments totalling EUR 6 billion were made for all trips booked prior to 8 March 2020. A large part of this amount has been repaid by travel organisers or offset against new bookings. The German authorities estimate that €1.5 billion worth of secured vouchers will be issued. Considering that part of these vouchers will be covered by private insurance schemes, the measure will only cover a maximum amount of reimbursement of EUR 840 million (see Section 2.11). The funds will be made available in the federal budget.
- (11) The German authorities confirm that the guarantee does not exceed 100% of the total value of the vouchers, which cannot exceed 100% of the advance payment originally made by the traveller, to the exclusion of any additional service provided by the issuer.

### **2.6. Geographical scope**

- (12) The guarantee scheme applies to all consumers covered by the Package Travel Directive<sup>5</sup>, regardless of their service provider, if German law is applicable<sup>6</sup>.

### **2.7. Beneficiaries**

- (13) The final beneficiaries of the measure are at least the 2 300 organisers of package travel established in Germany. These beneficiaries can be all type of companies

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<sup>5</sup> Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, OJ L 326, 11.12.2015, p.1-33, ELI: <http://data.europa.eu/eli/dir/2015/2302/oj>.

<sup>6</sup> Pursuant to the Package Travel Directive, tour operators are obliged to reimburse travellers for cancelled travel packages.

(i.e. including SMEs and large enterprises)<sup>7</sup>. However, financial institutions are excluded as eligible beneficiaries.

- (14) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>8</sup> on 31 December 2019.

## **2.8. Duration**

### *2.8.1. Date of entry into force of the scheme*

- (15) The law shall enter into force on the day after its promulgation (planned for July 2020) which shall occur at the latest upon the day the European Commission gives approval to the State aid.

### *2.8.2. Standstill clause*

- (16) Germany confirms that no aid will be granted or paid out before approval by the Commission.

### *2.8.3. Time period during which beneficiaries can apply for aid*

- (17) The beneficiaries are the organisers of package tours. They do not have to apply for aid as the aid is automatically granted to them by law if they issue a voucher that complies with the relevant rules and regulations of the act to mitigate the consequences of the COVID-19 outbreak in package travel contract law.
- (18) Issuing a voucher is only possible until 31 December 2021 and only for package travel contracts concluded before 8 March 2020 that have been cancelled due to the COVID-19 outbreak.
- (19) Given that the vouchers will be valid until 31 December 2021 at the latest and the legislative provision will enter into force in the second half of 2020, the maximum duration of the guarantee will therefore be around 18 months. The closer to 31 December 2021, the fewer vouchers are expected to be issued and accepted (e.g. a voucher issued in November 2021 would only have a duration of one month since vouchers are valid until 31 December 2021 at the latest).

## **2.9. Cumulation**

- (20) The German authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>9</sup>, the General Block Exemption

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<sup>7</sup> 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 Treaty, OJ L 187 of 26.6.2014, p. 1.

<sup>8</sup> 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 the Treaty, OJ L 187 of 26.6.2014, p. 1.

<sup>9</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1).

Regulation<sup>10</sup> or the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”)<sup>11</sup> provided the provisions and cumulation rules of those texts are respected.

## 2.10. Monitoring and reporting

- (21) Although the measure is notified under Article 107(3)(b), the German authorities indicated that they will apply 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<sup>12</sup>).

## 2.11. Description of the guarantee

### 2.11.1. General information

- (22) Germany clarified that the vouchers are covered by the existing statutory insolvency insurance [*Kundengeldabsicherer*] (private insurance). State protection applies only if there are gaps in coverage. Therefore, the actual payments due by the State in case the guarantees under the measure are called upon will fall below 100% of the total value of the secured vouchers (EUR 1.5 billion).

### 2.11.2. The level of the premiums

- (23) In determining the level of premiums to be paid, the German authorities took, as a starting point, the premiums established in section 3.2. of the Temporary Framework<sup>13</sup>. However, they consider that in the case at hand, these rates have to be adjusted to take account of the specificities of the measure.
- (24) Germany explains that the estimated advance payments made before 8 March 2020 amount to EUR 6 billion (recital (10)). A large portion of these advance payments have already been paid back to the customers by travel organisers or

<sup>10</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

<sup>11</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1–9 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

<sup>12</sup> Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014. For guarantees, the nominal value of the underlying instrument shall be inserted per beneficiary.

<sup>13</sup>

Type of recipient	Up to 1 year	2 <sup>nd</sup> and 3 <sup>rd</sup> year
SMEs	25 bps	50 bps
Large enterprises	50 bps	100 bps

offset against new bookings. The German authorities estimate that EUR 1.5 billion of secured vouchers will be issued.

- (25) Besides the State, also private insurance companies vouch for part of this EUR 1.5 billion of advance payments (see recital (22)). There are six companies active in Germany, each of them guaranteeing up to EUR 110 million per year.<sup>14</sup> This results in a maximum total amount of EUR 660 million to be guaranteed by the private market before the State steps in. Therefore, the estimated maximum amount that the State will guarantee is EUR 840 million (1.5 billion - 660 million), which is the maximum amount that the measure will cover.
- (26) It follows from the above that almost half (44%) of the total risk exposure is covered by private insolvency protection, which, in Germany's view, justifies setting the minimum levels of the guarantee premiums at 0.15% for SME and 0.25% for large enterprises where the duration is up to one year.
- (27) Moreover, considering that (i) a uniform premium is desirable to minimise administrative burdens for beneficiaries; (ii) the vouchers will be valid until 31 December 2021 and (iii) the average duration of the guarantees is one year, Germany is of the view that it makes sense to use only the rates for the first year of the guarantee period.

#### *2.11.3. Due date for payment of a premium for the guarantee*

- (28) According to the mechanism proposed in the draft legislation, the vouchers will be valid until 31 December 2021 and can theoretically be issued up to this date. However, the proportion of travel organisers and customers who will still be agreeing on a voucher in December 2021 is likely to be close to zero. The total number of vouchers issued should therefore be apparent by the end of November 2021 at the latest.
- (29) After informing the body responsible for calculating the premium of the total amount of vouchers issued, the premium calculated by applying the relevant rates (see recital (26)) should then be paid at the end of 2021 or at the latest at the beginning of 2022.

### **3. ASSESSMENT**

#### **3.1. Lawfulness of the measure**

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

#### **3.2. Existence of State aid**

- (31) For a measure to be categorised as State 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

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<sup>14</sup> §651r (3) Bürgerliches Gesetzbuch (BGB): “[...] Er kann seine Haftung für die von ihm in einem Geschäftsjahr insgesamt nach diesem Gesetz zu erstattenden Beträge auf 110 Millionen Euro begrenzen. [...]”

be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

- (32) The measure is imputable to the State, since it is based on an act to mitigate the consequences of the COVID-19 outbreak in package travel contract law (recital (7)) and it is administered by the Federal Ministry of Justice and Consumer Protection or the Federal Office of Justice (recital (8)). It is financed through State resources, since it is financed from the federal budget (recital (10)).
- (33) The measure confers an advantage on its beneficiaries in the form of non-market conform guarantees on vouchers for package tours which incentivise customers to accept vouchers<sup>15</sup> offered by tour operators instead of a repayment in cash which in turn has a positive effect on the liquidity situation of these tour operators. Tour operators are obliged to reimburse travellers for cancelled travel packages pursuant to the Package Travel Directive (recital (12)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the tour package industry, excluding the financial sector (recital (13)).
- (35) 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.
- (36) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU. The German authorities do not contest that conclusion.

### **3.3. Compatibility**

- (37) Since the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (38) 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*”.
- (39) The Commission has already acknowledged 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*”.<sup>16</sup>

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<sup>15</sup> In case the vouchers have not already been accepted by the consumers before the adoption of the measure.

<sup>16</sup> See footnote 11, Section 2.

- (40) The COVID-19 outbreak had a significant impact on the German economy and notably on the travel operator sector (see recitals (3)-(4)).
- (41) By reference to the Recommendation on vouchers and by analogy with Section 3.2 of the Temporary Framework, the Commission considers that the notified scheme is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State on the basis of the following considerations:
- (a) Germany has indicated that the State guarantees cover 100% of the value of vouchers to ensure full protection of all travellers (see recital (11));
  - (b) The guarantees are granted automatically when travel operators issue a new voucher in conformity with the new legislation (recital (17)), and the scheme will enter into force a day after the adoption of the present decision (recital (15));
  - (c) Germany has indicated (see recital (12)) that the notified measure benefits all travellers covered by the Package Travel Directive regardless of their service provider as long as German law is applicable;
  - (d) While the measure is notified directly under Article 107(3)(b) TFEU, Germany has taken as a starting point the premiums of section 3.2 of the Temporary Framework. On that basis, considering that (i) at least half of the risk exposure will be covered by private insolvency insurance, (ii) the guarantee will only cover a maximum of EUR 840 million of the EUR 1.5 billion secured vouchers to be issued (see Section 2.11.2), (iii) the vouchers will have a much shorter duration than the standard of 6 years considered under the Temporary Framework, the Commission considers justified the levels of the premiums set by Germany (recital (26))<sup>17</sup>.
  - (e) The mobilisation of the guarantees will be contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted;
  - (f) Aid may not be granted under the measure to undertakings that were already in difficulty on 31 December 2019 (see recital (14)).
  - (g) Although the measure is notified directly under Article 107(3)(b) TFEU, Germany has confirmed that it will respect the applicable monitoring and reporting obligations laid down in the Temporary Framework (see recital (21)). The German authorities further confirm that 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 (see recital (20)).

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<sup>17</sup> It is to be noted that the figure of 44% mentioned in recital (26) would apply only in the worst-case scenario implying the bankruptcy of all package tour operators in Germany. The fewer bankruptcies there are, then, other things equal, the lower the proportion of the damages that would have to be covered by the State, and it can be expected to be close to 0% for all damages up to EUR 660 million.



- (42) 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 that follow from the Recommendation.
- (43) The measure is also in line with the objective pursued by Commission Recommendation (EU) 2020/648<sup>18</sup> to make vouchers an attractive and reliable alternative to reimbursement in money.

#### **4. CONCLUSION**

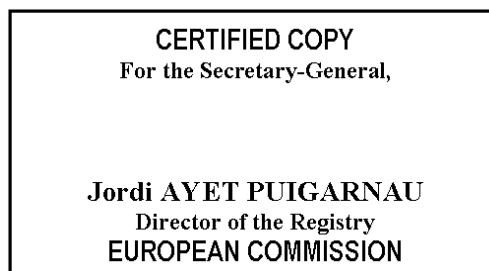
The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

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



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<sup>18</sup> See footnote 3.