Subject: State aid SA.57541 (2020/N) – Estonia
Support for international passenger shipping

Commission decision to raise no objections to the State aid SA.57541 (2020/N) – Estonia - Support for international passenger shipping, on the grounds that it is compatible with the internal market.

Excellency,

1. **PROCEDURE**

(1) By electronic notification of 14 July 2020, following pre-notification contacts, the Estonian authorities notified to the Commission, in accordance with Article 108(3), of the Treaty on the Functioning of the European Union ("TFEU"), of their intention to implement a new seafarer scheme consisting in a partial reduction of labour-related costs ("the notified scheme").

(2) Estonia 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.

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

2.1. **The aim of the scheme**

(3) In 2019 and 2020, Estonia adopted amendments to tax laws introducing, *inter alia*, tax incentives for labour taxes applicable to seafarers working on board merchant vessels. The Commission approved these tax incentives on 16 December 2019 in case SA.53469 (2019/N)\(^2\) and they entered into force on 1 July 2020.

(4) When planning the above-mentioned tax incentives (in the context of the notification in case SA.53469), the Estonian authorities estimated that there was no need for support to vessels providing international passenger transport in Estonia. This is because Estonia considered the economic and competitive situation for passenger vessels to be favourable, given the presence of ten international passenger vessels providing regular services flying the Estonian flag.

(5) However, the Estonian authorities submitted that due to the COVID-19 outbreak and subsequent travelling restrictions imposed by the Member States, Estonian maritime passenger transport services started facing significant economic issues, as shown by the fact that the turnover of shipping companies providing passenger transport has dropped by approximately 85% to 90%.

(6) As the current situation presents a great challenge to the Estonian maritime passenger transport sector, the Estonian authorities reassessed the possibility of granting aid to the international maritime passenger transport industry and considered that this would be now necessary. For these reasons, at present Estonia wishes to introduce a seafarer scheme applicable to “seafarers working on board vessels providing scheduled passenger transport between ports of the Community” (Section 3.2 second paragraph of the Community guidelines on State aid to maritime transport (‘the Maritime Guidelines’)\(^3\)). With “Community”, EU and European Economic Area (EEA) Member States are meant.

(7) The Estonian authorities submitted that the purpose of the notified scheme is to preserve the competitiveness of the EEA passenger transport sector through preserving jobs and supporting the development of the economy and the passenger transport sector.

2.2. **Objectives of the scheme**

(8) The Estonian authorities indicated that the objectives of the notified scheme are in line with the general objectives of the Maritime Guidelines.

(9) The Estonian authorities underlined that the notified scheme is of importance to reduce fiscal and other costs as well as burdens borne by Union ship-owners and Union seafarers towards levels in line with world norms, thereby directly stimulating the development of the maritime transport sector and employment.


In particular, the Estonian authorities submitted that Estonia has acceded to the major conventions on maritime safety and security, protection of the marine environment and seafarers’ rights, and that it ensures the compliance of Estonian-flagged vessels with all ratified conventions. In this regard, Estonia submits that the safe, efficient, secure and environmental friendly maritime transport and thus the development of the maritime transport sector and employment is ensured.

The Estonian authorities also indicated that another reason for introducing the notified scheme is to encourage the flagging or re-flagging to Member States' registers. In this sense, the objective of the notified scheme is primarily to maintain the number of EEA-flagged (including Estonian-flagged) vessels and to prevent their registration under the flag of convenience. The Estonian authorities added that keeping vessels in the EEA registers (including the Estonian register) and adding new vessels to the registers would create more opportunities for seafarers working on EEA-flagged vessels in the future.

In addition, the Estonian authorities stressed that the notified scheme will contribute to the consolidation of the maritime cluster established in the Member States while maintaining an overall competitive fleet on world markets. They explained that Estonia has ca. 6800 companies that supply goods or offer services to shipping companies dealing with international passenger transport. Therefore, the passenger transport sector has considerable impact on the jobs in other sectors, including the tourism sector. In this respect, the notified scheme would help to retain and increase shipping expertise with the aim to develop the maritime cluster further, thus creating new jobs in the maritime sector for the EEA citizens, supporting innovation, attracting investments and, ultimately, increasing tax revenue as well.

Lastly, the notified scheme would contribute to maintaining and improving maritime know-how and protecting and promoting employment for European seafarers. The Estonian authorities explained that Estonia has more than 10,000 seafarers with excellent education and substantial experience. Therefore, the maritime sector has great potential of becoming a driver of growth for the Estonian economy. Keeping ships flagged in the EEA would help preserve maritime know-how, which in turn helps preserve other jobs.

2.3. The functioning of the scheme

The Estonian authorities submitted that the notified scheme consists in a partial reimbursement of labour-related costs for shipping companies providing scheduled passenger transport between ports of the Union.

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4 Estonia is on the Paris MoU White List and therefore recognized as a “quality flag”.

5 The Estonian passenger transport sector forms 25% of the GDP of the tourism sector, which in turn forms 7% of the total GDP of Estonia.
The Estonian authorities indicated that the following labour taxes and contributions are currently applicable in Estonia (including to seafarers):

- employer’s social tax: 33%;\(^6\)
- employer’s unemployment insurance premium: 0.8%;\(^7\)
- employee’s unemployment insurance premium: 1.6%;\(^8\)
- income tax on employee: 20%;
- employee’s contribution to compulsory funded pension: 2%, if an employee who is a resident natural person has voluntarily or compulsorily pursuant to law joined the funded pension system.

Social tax and the employer’s part of the unemployment insurance premium are costs borne by the employer, while income tax, employee’s unemployment insurance premium and the contribution to compulsory funded pension are costs borne by the employee. Estonian employers withhold income tax from the employee’s earnings and pay social tax and the employer’s part of the unemployment insurance premium on their earnings. Employers also withhold the employee’s unemployment insurance premium and compulsory funded pension contribution.

The partial reimbursement envisaged under the notified scheme will apply to social tax and income tax mentioned in recital (15) above.

The Estonian authorities explained that the aid amount will be calculated based on social tax paid and income tax withheld by the eligible employer in the previous quarter, meaning that the employer shall pay and withhold all regular labour taxes from wages paid to seafarers. This will enable to secure that all the social guarantees will continue to apply for crewmembers. In addition, possible benefits that depend on the sum of taxable wages such as unemployment benefit, redundancy payment, insolvency benefit, parental benefit, shall also not be reduced. Finally, State health insurance will also be guaranteed for seafarers.

The Estonian authorities explained that the aid amount will be calculated based on the difference between labour taxes (social tax and income tax) calculated from paid wages and labour taxes (social tax and income tax) calculated from the so-called tax base. In this regard, they explained that the tax base is 1.5 times the value of the minimum monthly wage in case of a rating (i.e. members of the ship’s crew other than the master (or ‘captain’) or an officer) and 2.5 times the value of the minimum monthly wage in case of a member of the ship’s crew.

\(^6\) The social tax rate is 33%. Of this, the rate of the social tax that is transferred to State pension insurance funds is 20% and the rate of the social tax component transferred to State health insurance funds is 13%.

\(^7\) Currently the rate of unemployment insurance premium for an employer is 0.8%, but according to the Estonian Unemployment Insurance Act § 41 (2), the rate of unemployment insurance premium could be 0.25–1.4%.

\(^8\) Currently the rate of unemployment insurance premium for insured persons is 1.6%, but according to the Estonian Unemployment Insurance Act § 41 (1), the rate of unemployment insurance premium could be 0.5–2.8%.
management level (i.e. the master or the officers\(^9\) of the ship).\(^{10}\) In this regard, as of 2020 the minimum monthly wage for full-time work in Estonia is 584 euros, therefore the tax base for the aid formula would currently be either EUR 876 or EUR 1460 euros.

(20) The Estonian authorities submitted that the notified scheme will be applicable to undertakings operating vessels providing scheduled passenger services within the EEA (‘between ports of the Community’), regardless of the size of the undertaking. To apply for the aid, the undertaking will have to fulfil the following criteria:

1. the undertaking is a resident company of Estonia or a resident company of a Contracting State of the EEA or the Swiss Confederation with a permanent establishment or operating as an employer in Estonia;\(^{11}\)
2. the undertaking is paying wages to Union seafarers\(^{12}\), which is the basis for the aid;
3. the wages mentioned in point 2 are paid for seafarers working on board vessels that are providing scheduled international passenger services within the EEA, that are flying the flag of a Contracting State of the EEA and that have gross tonnage of at least 500;
4. the undertaking has no State tax arrears nor scheduled tax arrears regarding income tax and social tax;
5. no mandatory dissolution, liquidation or bankruptcy proceedings have been instituted against the undertaking;
6. the undertaking does not receive other State aid for covering the labour costs of Union seafarers\(^{13}\);
7. the undertaking is not an undertaking in difficulty within the meaning of Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty by the European Commission\(^{14}\);

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\(^{9}\) The ship’s officers include the deck officer, the engineer officer, the electro-technical officer, the radio electronic officer, the ship security officer, and other specialist positions determined by the ship-owner.


\(^{11}\) Estonia has explained that the eligibility of resident companies of a contracting State of the EEA or the Swiss Confederation will explicitly be laid down in the Ministerial Regulation.

\(^{12}\) The Estonian authorities explained that the scheme would also apply to seafarers lawfully residing in Estonia under a long term resident’s residence permit in accordance with Chapter 3 of the Estonian Aliens Act, as indicated in recital (23) et seq.

\(^{13}\) Ibid.

8. the undertaking has not failed to perform the obligation to reimburse the State aid declared illegal and incompatible with the internal market on the basis of a decision of the European Commission.

(21) The aid will be paid to eligible undertakings quarterly. The Estonian Maritime Administration will pay the aid to the eligible undertaking’s account of the Estonian Tax and Customs Board by the 20th day of the following month of the applicable quarter.

(22) The Estonian authorities confirmed that only seafarers working on board EEA-flagged vessels providing scheduled passenger transport between ports of the Union will be eligible to benefit from the notified scheme. In this regard, seafarers eligible under the scheme will be seafarers who are EU/EEA citizens, Swiss citizens\(^{15}\) and seafarers lawfully residing in Estonia under a long-term resident’s residence permit in accordance with Chapter 3 of the Estonian Aliens Act\(^{16}\), for whom the applicant for aid is obliged to pay social security contributions in Estonia.

(23) The Estonian authorities explained that the reason for this is the specific cultural and historical background in Estonia. In fact, after the restoration of independence of Estonia following the disintegration of the USSR, almost 500,000 persons residing in Estonia were citizens of the former Soviet Union. In 1992, the Estonian government reintroduced the old Citizenship Act of 1938. Under this Act, persons having such status were to elect which citizenship they wished to acquire between Estonian, Russian or that of any other former USSR State. The Estonian government has encouraged persons with undetermined citizenship to choose the Estonian citizenship or the citizenship of another country. However, since making a particular choice is not mandatory under the Citizenship Act, there is still a certain proportion of the population who have not made their decision yet and are still with undetermined citizenship. In addition, most people who resided in Estonia at the moment of regaining independence from the USSR had the right to remain permanent residents in Estonia and hold a long-term resident’s permit even if they were not Estonian citizens or undetermined citizens, but have taken up another citizenship, primarily that of Russia.

(24) Persons with undetermined citizenship lawfully living in Estonia have long-term residence permits and they are enjoying all political, civil, economic, social and cultural rights. In comparison to Estonian citizens, persons with undetermined citizenship only lack the right to vote in Parliamentary elections, be members of political parties, or serve in public service. The Estonian authorities finally underlined that neither the persons with undetermined citizenship nor the majority of Estonia’s foreign citizens are recent immigrants, but have resided in Estonia before the re-independence almost 30 years ago, or are their offspring.

\(^{15}\) The inclusion of Swiss citizens derives from the agreement on freedom of movement between the European Union, its member states and the Swiss Confederation (Official Journal of the European Union L 114, 30.4.2002, pp 6).

In light of the above, at present 10.7% of the current Estonian population amounts to persons having valid long-term residence permits and who are not Estonian citizens. 43% of these persons with long-term residence permits are persons with undetermined citizenship, while 53% are persons with Russian citizenship. Because of this cultural peculiarity and the fact that many long-term residents currently work at Estonian passenger transport companies, the Estonian authorities consider it essential to ensure that the people with undetermined citizenship and foreign citizens with a long-term residence permit in Estonia enjoy equal treatment with Estonian citizens, also with respect to the access to aid granted under the notified scheme. The Estonian authorities have stressed that disregarding this fact could result in employers choosing seafarers based on their citizenship leading to lay-offs of long-term residents lawfully living in Estonia and hiring the EU/EEA or Swiss citizens instead. The Estonian authorities consider that this would be undesirable especially in light of the current crisis.

The Estonian authorities finally confirmed that the notified scheme does not cover any seafarers involved in towage and dredging activities.

### 2.4. Aid impact and beneficiaries

The Estonian authorities estimated the overall impact of the notified scheme in terms of foregone revenues at approximately EUR 27 million. The estimated annual aid impact of the notified scheme is provided in a table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated aid amount in EUR</td>
<td>3 400 000</td>
<td>7 500 000</td>
<td>7 900 000</td>
<td>8 200 000</td>
</tr>
</tbody>
</table>

The Estonian authorities estimated the number of beneficiary shipping companies under ten undertakings, and indicated that the notified scheme would mostly benefit large companies but also small and medium-sized companies.

In addition, the Estonian authorities explained that at present, an estimated number of 2500 seafarers work on eligible vessels in Estonia. The size of one crew is, depending on the vessel, 400-500 seafarers (2 shifts). The impact calculations described above have been done assuming that the number of vessels eligible for the aid will not change.

### 2.5. National legal basis

The national legal basis consists in the regulation “Conditions and procedure for granting support to international passenger shipping” (the “Regulation”), which will be passed by the Minister of Economic Affairs and Communications and issued in accordance with subsection 1 of § 53 of the State Budget Act. The Estonian authorities confirmed that no aid will be granted prior to the decision from the European Commission authorising the scheme. The grantor of the aid is the Estonian Maritime Administration.

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17 The Estonian authorities indicated that all legislative acts in Estonia, including the Regulation, are published on the website of the Riigi Teataja (State Gazette), available at: https://www.riigiteataja.ee.
2.6. Duration

(31) The Estonian authorities clarified that the notified scheme was planned to enter into force on 1 July 2020. However because granting of aid is subject to a positive decision by the European Commission, the Regulation will now be passed after the aforementioned decision. The aid is planned to be granted quarterly and the first aid payment is scheduled to take place in October 2020 (subject to the aforementioned positive decision). The scheme will remain in force for 3.5 years. Therefore, the notified scheme will expire on 31 December 2023.

(32) In addition, the Estonian authorities confirmed that prolongation of the scheme will be subject to a new notification to the Commission.

3. Assessment of the Aid

3.1. Existence of aid under Article 107(1) of the TFEU

(33) According to Article 107(1) TFEU "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, be incompatible with the internal market".

(34) It follows that, in order for a measure to be qualified as State aid within the meaning of Article 107(1) TFEU, the following four cumulative conditions have to be met:

- It has to be imputable to the Member State and granted out of State resources.
- It has to confer an economic advantage on undertakings.
- The advantage has to be selective.
- The measure has to distort or threaten to distort competition and affect trade between Member States.

(35) The reduction of labour-related taxes and social contributions in respect of qualifying seafarers constitute foregone State revenues and thus involve State resources. Moreover, since the measure is implemented through national legislation, it is imputable to Estonia. As far as employers’ contributions are concerned, the measure grants a direct advantage to the shipping companies hiring these seafarers as they benefit from lower labour costs and they are partly relieved from a charge that they would normally have to pay to the State. As far as employees’ contributions are concerned, the measure grants at least an indirect advantage to the shipping companies hiring these seafarers in terms of attracting the best employees. Those advantages are selective since they are not available to companies not benefiting from the scheme, which are however in a comparable situation. Finally, in view of other possible means of transport and the global scale of maritime transport, the seafarers' exemptions are liable to distort competition and affect trade within the liberalised European shipping market.

(36) It follows that the measure involves State aid in the sense of Article 107(1) TFEU. The Estonian authorities do not contest that conclusion.
3.2. Lawfulness of the aid

(37) The Estonian authorities confirmed that the Regulation contains a standstill clause, whereby the aid can only be granted after the Commission has authorised the notified scheme. Hence, without the Commission’s approval, the notified scheme cannot enter into force.

(38) The Commission takes note of the commitment of the Estonian authorities to respect the standstill obligation laid down in Article 108(3) TFEU and not to enforce the regime until the Commission adopts a decision authorising the notified measure.

3.3. Compatibility of the aid

(39) Pursuant to Article 107(3)(c) TFEU aid to facilitate the development of certain economic activities or of certain economic areas may be considered compatible with the common market, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(40) The Commission has issued Guidelines for the application of Article 107(3)(c) TFEU with regard to State aid to maritime transport (the “Maritime Guidelines”) 18. The scheme under assessment has been notified under the Maritime Guidelines. The Commission will therefore examine the notified scheme in the light of the Maritime Guidelines.

3.3.1. Objectives in the common interest

(42) The Maritime Guidelines provide that State aid schemes in relation to labour-related costs for seafarers may be introduced in order to support the EU’s maritime interest, in particular with the aim of:

- reducing fiscal and other costs and burdens borne by EU ship-owners and EU seafarers towards levels in line with world norms, directly stimulating the development of the maritime transport sector and employment, rather than providing general financial assistance;
- encouraging the flagging or re-flagging to Member States' registers;
- contributing to the consolidation of the maritime cluster established in the Member States while maintaining an overall competitive fleet on world markets; and
- maintaining and improving maritime know-how and protecting and promoting employment for European seafarers.

(43) The Commission notes that the objectives of the notified scheme as described in section 2.2 above are in line with the objectives set out by the Maritime Guidelines. The scheme aims at guaranteeing economic conditions in order to

18 See footnote 3.
maintain the competitiveness of the European shipping sector, attract investments and achieve economic growth, increase the EEA's maritime fleet and create skilled maritime employment in the EEA.

(44) The notified seafarer scheme is therefore in line with the Maritime Guidelines and the Commission's decisional practice in this respect.

3.3.2. Scope of the scheme

(45) Seafarer schemes in the sense of the Maritime Guidelines may concern either:

- reduced rates (or a (partial) reimbursement) of income tax for EU seafarers on board vessels registered in a Member State, and/or
- reduced rates (or a (partial) reimbursement) of contributions for the social protection of EU seafarers employed on board vessels registered in a Member State.

(46) As described in section 2.3 above, the notified scheme concerns a reduction in labour-related taxes and social contributions related to seafarers employed on vessels providing scheduled passenger transport between ports of the EU. This type of labour-cost reductions is contemplated in the Maritime Guidelines.

(47) The notified scheme, thus, is in line with the Maritime Guidelines and the Commission's decisional practice in this respect.

3.3.3. Eligible seafarers

(48) Only ‘Community seafarers’, employed on board vessels registered in a Member State, are eligible to benefit from the seafarer scheme. Under the Maritime Guidelines, Community seafarers are defined as:

- "Community / EEA citizens[19], in the case of seafarers working on board vessels (including ro-ro ferries) providing scheduled passenger services between ports of the Community,
- all seafarers liable to taxation and/or social security contributions in a Member State, in all other cases."

(49) As indicated in recitals (22) to (25) above, the Estonian authorities submitted that the notified scheme will apply to EU/EEA citizens, Swiss citizens as well as seafarers lawfully residing in Estonia in accordance with Chapter 3 of the Estonian Aliens Act, for whom the applicant for aid is obliged to pay social security contributions in Estonia. The Estonian authorities also indicated that eligible seafarers under the scheme have to work on board vessels flying an EEA flag providing international scheduled passenger services within the EEA.

(50) The Maritime Guidelines set out that in case of seafarers working on board vessels (including ro-ro ferries) providing scheduled passenger services between ports of the Community, Community seafarers are defined as Community / EEA

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19 Community citizens are EU citizens.
citizens. The Commission notes that normally it is bound to apply its guidelines; however, the adoption of such guidelines does not relieve the Commission of its obligation to examine the specific exceptional circumstances relied on by a Member State.\(^{20}\)

(51) In the context of the present case, the Estonian authorities have indicated (see recitals (22) to (25) above) that because of social and historical reasons a relevant number of Estonian residents do not have EU or EEA citizenship. Nevertheless, for the same social and historical reasons these residents enjoy the same rights as Estonian citizens under Estonian laws, including as concerns employment. Furthermore, most of these residents have been residing in Estonia since before the restoration of its independence, and in the case of persons with undetermined citizenship they were allowed not to opt for a certain citizenship pursuant to Estonian law.

(52) In light of the present situation, the Commission notes that pursuant to settled case law of the EU Courts, in the application of Article 107(3) TFEU the Commission enjoys wide discretion, the exercise of which involves complex economic and social assessments.\(^{21}\) In addition, EU Courts have ruled that the Commission is normally bound by the guidelines that it issues, to the extent that they do not depart from the rules in the TFEU, and to the extent that their application is not in breach of general principles of law, such as equal treatment, in particular where exceptional circumstances, different from those envisaged in those guidelines, distinguish a particular case from the usual type of cases foreseen in those guidelines.\(^{22}\)

(53) In these circumstances, the Commission deems that limiting the application of the seafarer scheme only to EU seafarers without taking into account the specific social and historical situation of a relevant part of the Estonian population could not appropriately ensure that long-term residents lawfully living in Estonia are treated on equal terms to Estonian and EEA residents. In fact, as underlined by the Estonian authorities, such a situation could potentially lead to lay-offs of such long-term residents lawfully living in Estonia.

(54) Moreover, the Commission introduced the requirement of EU/EEA citizenship in the Maritime Guidelines in order to promote employment of such citizens in intra-Union scheduled passenger transport, where the competitive conditions allowed for such a policy to be a priority in terms of State aid objectives. However, the requirement of EU/EEA citizenship in intra-Union scheduled passenger transport was not meant to cover the particular social and historical circumstances of the present case. As the Commission explained in 2004 in section 3.2 of the Maritime Guidelines: “The previous 1997 Guidelines allowed such reductions [i.e. reductions of labour-related costs] for all seafarers working on board vessels...”

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\(^{20}\) Judgment of the Court (Grand Chamber) of 8 March 2016 in Hellenic Republic v European Commission, Case C-431/14 P Hellenic Republic v. Commission, Case C-431/14P, paragraph 72.

\(^{21}\) See, among others, judgment of the Court (Grand Chamber) of 8 March 2016 in Hellenic Republic v European Commission, Case C-431/14 P, paragraphs 68 to 72, as well as judgments in Germany and Others v Kronofrance, C 75/05 P and C 80/05 P, EU:C:2008:482, paragraph 59, and Banco Privado Português and Massa Insolvente do Banco Privado Português, C 667/13, EU:C:2015:151, paragraph 67.

\(^{22}\) Ibid., Hellenic Republic v Commission, Case C-431/14P, paragraph 70.
registered in a Member State and subject to tax and or social security contributions in a Member State. However, since then it has become clear that pressure by international competition on European shipowners is very strong in the case of international freight transport, while it is lighter in the case of intra-Community scheduled passenger transport. Boosting the competitiveness of European shipping industry is therefore a prior objective of aid in the former case. Preventing Member States from granting tax relief to all seafarers in this case would have very negative effects on the competitiveness of European shipowners, which could be encouraged to flag-out. At the same time it has been noticed that employment of European citizens is significant, in percentage terms and in numbers, in intra-Community scheduled passenger transport. Protection of employment in the Community is therefore a priority for aid in this case.”

(55) For the reasons expressed above, in light of the information provided by the Estonian authorities in the context of the notified scheme, especially in consideration of the particular composition as well as the social and historical reasons linked to the Estonian population (see recitals (22) to (25) above), the Commission concludes that the notified scheme is in line with the Maritime Guidelines.

3.3.4. Eligible vessels

(56) Only genuine maritime transport activities are eligible for aid under the Maritime Guidelines. Maritime transport activities are defined in Regulation (EEC) No 4055/86 and in Regulation (EEC) No 3577/92 as the "transport of goods and persons by sea" between ports or between ports and an offshore installation.

(57) Eligible vessels must therefore be engaged in transport of passengers or freight (shipping activities) between various destinations by sea-going vessels and other activities directly related thereto.

(58) As described in section 2.3 above, only EEA-flagged vessels providing scheduled passenger transport in the EEA will be eligible to benefit from the notified scheme. It follows that the eligible vessels under the notified scheme are vessels involved in maritime transport activities in line with the requirements of the Maritime Guidelines.

Registration in a Member State

(59) Section 3.2 of the Maritime Guidelines provides that employment-cost reductions should be allowed for EU shipping provided they apply to EU seafarers employed on board ships registered in a Member State.

(60) The Estonian authorities confirmed that the notified scheme will only apply to vessels flying an EEA flag.

(61) For these reasons, Section 3.2 of the Maritime Guidelines is complied with.

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3.3.5. National flagging restrictions

(62) National flagging restrictions, according to which the benefits of the seafarer scheme are conditional on a certain level of national (and not EEA) flagging, infringe internal market rules in a manner indissolubly linked to the assessment of the compatibility of similarly limited aid measures.

(63) The Estonian authorities confirmed that the notified scheme does not discriminate between EEA flags, as it applies to all EU/EEA eligible vessels.

(64) For this reason, the Commission considers that there is no infringement of internal market rules and that the conditions of the Maritime Guidelines on EEA flagging are complied with.

3.3.6. Aid cumulation / aid ceiling

(65) In line with Chapter 11 of the Maritime Guidelines, the total aid for the benefit of shipping companies, independently of the form of the aid, should not provide a higher benefit than the full exemption from taxes and social contributions of shipping activities and seafarers.

(66) The Estonian authorities explained the functioning of the notified scheme, as explained in section 2.3 above. Since the benefits only constitute a reduction in labour-related costs that have to be paid, such benefits cannot be higher than a full exemption from taxes and social contributions of shipping activities and seafarers.

(67) Therefore, the Commission concludes that the requirements relating to aid cumulation and aid ceiling are fulfilled.

3.3.7. Duration

(68) According to the case law, aid schemes cannot be approved as compatible under Article 107(3) TFEU for an unlimited duration\(^\text{25}\). Schemes must be subject to a regular review of their effectiveness and impact.

(69) As explained in recital (31) above, Estonian authorities indicated that the notified scheme will remain in force until 31 December 2023.

(70) The Commission notes that such duration is in line with previously approved State aid schemes in the maritime sector.

4. Conclusion

(71) Based on the foregoing, the Commission considers that the notified scheme fulfils all the necessary conditions of the Maritime Guidelines and is in line with the Commission’s decisional practice. Therefore, the Commission concludes that the notified scheme, as assessed above, constitutes State aid pursuant to Article 107(1) TFEU which is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

\(^{25}\) Case C-67/09 P Nuova Agricast EU:C:2010:607, para. 80.
5. **DECISION**

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)(c) of the Treaty on the Functioning of the European Union.

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](http://ec.europa.eu/competition/elojade/isef/index.cfm).

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[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully
For the Commission

Margrethe VESTAGER
Executive Vice-President

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Secretary-General

Ilze JUHANSONE
EUROPEAN COMMISSION