Subject: State Aid SA.63164 (2021/N) – Estonia
COVID-19: Emergency aid for the restructuring of a cultural operator’s service, product, business process or business model due to a COVID-19 outbreak and emergency aid to cultural and sports public entities, foundations set up by the State and public authorities managed by government agencies due to COVID-19 related restrictions

Excellency,

1. **PROCEDURE**

(1) By electronic notification of 20 May 2021, Estonia notified aid in the form of limited amounts of aid (“Emergency aid for the restructuring of a cultural operator’s service, product, business process or business model due to a COVID-19 outbreak” and “Emergency aid to cultural and sports public entities, foundations set up by the state and public authorities managed by government agencies due to COVID-19 related restrictions”, the “measures”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).\(^1\) Estonia provided additional information on 4 June 2021.

(2) Estonia exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

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2. **DESCRIPTION OF THE MEASURES**

(3) Estonia considers that the COVID-19 outbreak affects the real economy. The measures form part of an overall package of measures and aim 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.

(4) Estonia confirms that the aid under the measures 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.

(5) The compatibility assessment of the measures 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**

(6) The measures provide aid in the form of direct grants.

2.2. **Legal basis**

(7) The legal basis for the measure “Emergency aid for the restructuring of a cultural operator’s service, product, business process or business model due to a COVID-19 outbreak” (hereinafter “measure 1”) is the State Budget Act and the Regulation of the Minister of Culture of 11 May 2021 No 17 (hereinafter “Regulation No 17”).

(8) The legal basis for the measure “Emergency aid to cultural and sports public entities, foundations set up by the state and public authorities managed by government agencies due to COVID-19 related restrictions” (hereinafter “measure 2”) is the State Budget Act and the Regulation of the Minister of Culture of 13 May 2021 No 18 (hereinafter “Regulation No 18”).

2.3. **Administration of the measures**

(9) The Estonian Ministry of Culture is responsible for administering the measures.

2.4. **Budget and duration of the measures**

(10) The estimated budget of measure 1 is EUR 4 150 000 and the estimated budget of measure 2 is EUR 6 500 000.

(11) Aid may be granted under the measures as from the notification of the Commission’s approval until no later than 31 December 2021.

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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.
2.5. **Beneficiaries**

(12) The final beneficiaries of measure 1 are SMEs and large enterprises\(^3\) in the cultural sector, whether they are local government entities or legal persons governed by private law registered in Estonia. However, foundations established by the State and financial institutions are excluded as eligible final beneficiaries under measure 1.

(13) The final beneficiaries of measure 2 are SMEs and large enterprises\(^4\) in the cultural and sport sectors, whether they are legal entities governed by public law, foundations established by the State or with the participation of the State, or public bodies administered by a government body. However, financial institutions are excluded as eligible final beneficiaries under measure 2.

(14) Aid may not be granted under the measures to medium\(^5\) and large enterprises that were already in difficulty within the meaning of the GBER\(^6\) 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\(^7\) or restructuring aid\(^8\).

2.6. **Sectoral and regional scope of the measures**

(15) Measure 1 is limited to the cultural sector in Estonia. It therefore does not apply to the financial sector. It applies to the whole territory of Estonia.

(16) Measure 2 is limited to the cultural, recreational and sports sectors in Estonia. It therefore does not apply to the financial sector. It applies to the whole territory of Estonia.

2.7. **Basic elements of the measures**

2.7.1. *Measure 1*

(17) The objective of measure 1 is to restore the long-term sustainability of beneficiaries that have been significantly affected by the COVID-19 outbreak through the restructuring of their service, product, business process and/or business model in order to become more efficient and competitive, including through the reorganisation of the physical environment and the development of contactless services, and to allow access to culture.

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\(^4\) As defined in Annex I to the GBER.

\(^5\) As defined in Annex I to the GBER.

\(^6\) As defined in Article 2(18) of the GBER.

\(^7\) 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.
The minimum amount of aid per applicant under measure 1 is EUR 1 000 and the maximum amount of aid per applicant is EUR 200 000; all figures must be gross, that is, before any deduction of tax or other charge.

To be eligible for aid under measure 1, applicants must meet the following conditions:

(a) They must be a local government entity or a legal person governed by private law registered in Estonia. However, foundations established by the State are excluded from measure 1;

(b) They must be a cultural operator, as described in Regulation No 17;

(c) They must have had their activity suspended or severely restricted by the Government of the Republic Order No 282 of 19 August 2020 “Measures and restrictions necessary to prevent the spread of the COVID-19 disease” as amended;

(d) They must not have been in bankruptcy, liquidation or compulsory winding-up and not have a valid notice of removal from the commercial register;

(e) They must not have tax debts in respect of national taxes or not be deferred at the time of the application;

(f) They must have complied with their obligation to submit an annual report or tax return;

(g) If the granting authority has previously taken a recovery decision on the applicant, the aid to be recovered under that decision has been repaid by the deadline set in the recovery decision.

Applicants that have received support from funds from the supplementary budget of the State for 2021 under other COVID-19 support measures are not eligible for aid under this measure.\(^9\)

The eligible costs under measure 1 are all the costs that are directly related to the restructuring of the service, product, business process or business model of the beneficiary and that have been incurred during the eligibility period. Costs that are related to this restructuring but are not related to the prevention of the COVID-19 disease and/or to the operation of the beneficiary’s activities under restrictions imposed by the Government of the Republic of Estonia are not eligible.

The eligibility period referred to in recital (21) starts from the date of submission of the application or from a later date specified in the application, which may not exceed 31 December 2021.

2.7.2. Measure 2

The objective of measure 2 is to support beneficiaries whose activities have been completely suspended or severely restricted as a result of the containment measures applicable from 11 March 2021 on the basis of the Government of the Republic

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\(^9\) Exceptions notably concern the cases in which applicants have received support under the Estonian Unemployment Insurance Fund, the “Aid to production and distribution of films (including cinemas) to the film industry following the COVID-19 outbreak” approved by Commission Decision of 26 May 2021 in case SA.62801 and “Emergency assistance to cultural organisers following the COVID-19 outbreak” approved by Commission Decision of 7 May 2021 in case SA.62815.
Order No 282 of 19 August 2020 ‘Measures and restrictions necessary to prevent the spread of the COVID-19 disease’ as amended, in order to ensure the sustainability of their core business and allow the access to culture through restructuring.\(^{10}\)

(24) The amount of aid per beneficiary may not exceed the difference between the revenue and the expenditure of the budget submitted in the application. It shall not exceed EUR 1 800 000 per undertaking (all figures used being expressed in gross, that is before any deduction of tax or other charge).

(25) To be eligible for aid under measure 2, applicants must meet the following conditions:

(a) They must be a legal entity governed by public law, a foundation established by the State or with the participation of the State, or a public body administered by a government body;

(b) They must not be a university acting as a legal person governed by public law, unless its museum operates as a structural unit within the meaning of sections 1(3) and 2(1) of the Museums Act\(^{11}\);

(c) Their main activity is in the field of culture or in the field of recreational or sport activities;

(d) They must have had their activity suspended or severely restricted by the Government of the Republic Order No 282 of 19 August 2020 “Measures and restrictions necessary to prevent the spread of the COVID-19 disease” as amended;

(e) They must have had income from their economic activities in 2019, which shall not include received subsidies.

(f) They must not have been in bankruptcy, liquidation or compulsory winding-up and not have a valid notice of removal from the commercial register;

(g) They must not have tax debts in respect of national taxes or not be deferred at the time of the application;

(h) They must have complied with their obligation to submit an annual report or tax return;

(i) If the granting authority has previously taken a recovery decision on the applicant, the aid to be recovered under that decision has been repaid by the deadline set in the recovery decision.

(26) Applicants that, due to the containment measures applicable from 11 March 2021 on the basis of the Government of the Republic Order No 282 of 19 August 2020, have received support from funds from the supplementary budget of the State for 2021 under other COVID-19 support measures, with the exception of the support measure of the Estonian Unemployment Insurance Fund, are not eligible for aid under this measure.

\(^{10}\) Regulation No 18 defines “restructuring” as an activity that reorganises the undertaking’s activities, product, business process and/or business model in such a way that it becomes more efficient and competitive, including through the diversification of new and more viable activities or sectors, the development of new customer and/or market segments, the reorganisation of the physical environment in which the service is provided, or through the development of contactless services.

The eligible costs under measure 2 are all the costs that are directly related to the restructuring of the service, product, business process or business model of the beneficiary and that have been incurred during the eligibility period. Costs that are related to the restructuring but are not related to the prevention of the COVID-19 disease and/or to the operation of the beneficiary’s activities under restrictions imposed by the Government of the Republic of Estonia are not eligible.

The eligibility period referred to in recital (27) is from 1 March 2021 to 31 December 2021.\(^{12}\)

### 2.8. Cumulation

The Estonian authorities confirm that aid granted under the measures may be cumulated with aid under de minimis Regulation\(^{13}\) or the GBER provided the provisions and cumulation rules of those Regulations are respected.

The Estonian authorities confirm that aid granted under the measures 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.

The Estonian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measures 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. Aid granted under the measures and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

### 2.9. Monitoring and reporting

The Estonian 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 measures on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting\(^{14}\)).

### 3. ASSESSMENT

#### 3.1. Lawfulness of the measure

Since both legal bases provide that no aid will be granted before the notification of the Commission’s approval, (recital (11)), the Commission considers that the Estonian authorities have respected their obligations under Article 108(3) TFEU.

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\(^{12}\) The Estonian authorities note that the eligibility period starts from 1 March 2021 because beneficiaries under measure 2 were not covered by the measures destined to support undertakings affected by the containment measures established by the Government of the Republic from 11 March 2021.


\(^{14}\) Referring to information required in Annex III to the GBER.
3.2. Existence of State aid

(34) 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.

(35) The measures are imputable to the State, since they are administered by the Estonian Ministry of Culture (recital (9)) and they are based on the national legal bases referred to in recitals (7) and (8). They are financed through State resources, since they are financed by public funds.

(36) The measures confer an advantage on their beneficiaries in the form of direct grants (recital (6)). The measures thus confer an advantage on those beneficiaries which they would not have had under normal market conditions.

(37) The advantage granted by the measures is selective, since they are awarded only to certain undertakings, in particular measure 1 applies to undertakings active in the cultural sector and measure 2 applies to undertakings active in the cultural and sports sectors (recitals (15) and (16)), excluding the financial sector.

(38) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(39) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Estonian authorities do not contest that conclusion.

3.3. Compatibility

(40) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether those measures are compatible with the internal market.

(41) 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”.

(42) 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”.

(43) The measures aim at supporting undertakings active in the cultural and sports sectors to ensure their long-term sustainability at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that outbreak is
affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(44) The measures are part of a series of measures conceived at national level by the Estonian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve economic continuity is widely accepted by economic commentators. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of limited amounts of aid”) described in section 3.1 of the Temporary Framework.

(45) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants (recital (6)). The overall nominal value of the direct grants shall not exceed EUR 1.8 million per undertaking (recitals (18), (24) and (31)); all figures used must be gross, that is, before any deduction of tax or other charges. In case a beneficiary receives aid on several occasions or in several forms under the measures or under another existing scheme approved by the Commission under section 3.1, the overall maximum cap per undertaking as set out in points 22(a) of the Temporary framework will be respected. The measures therefore comply with point 22(a) of the Temporary Framework.

- Aid is granted under the measures on the basis of a scheme with an estimated budget as indicated in recital (10). The measures therefore comply with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measures to medium\(^{15}\) and large enterprises that were already in difficulty on 31 December 2019 (recital (14)). The measures therefore comply 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\(^{16}\) or restructuring aid\(^{17}\) (recital (14)). The measures therefore comply with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measures no later than 31 December 2021. The measures therefore comply with point 22(d) of the Temporary Framework.

(46) The Estonian authorities confirm that the aid under the measures 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 (recital (4)).

\(^{15}\) As defined in Annex I to the GBER.

\(^{16}\) 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.

\(^{17}\) 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 Estonian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (32)). The Estonian authorities further confirm that the aid under the measures may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (29) to (31)).

The Commission therefore considers that the measures are 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