



EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State Aid SA.60117 (2020/N) – Austria  
COVID-19: Schutzschirm für Veranstaltungen I**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 22 December 2020, Austria notified aid in the form of limited amounts of aid (*Richtlinie der Bundesministerin für Landwirtschaft, Regionen und Tourismus für einen Schutzschirm für Veranstaltungen I*, “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”).<sup>1</sup>

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<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, 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, 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, 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 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340 I, 13.10.2020, p. 1.

Seiner Exzellenz Herrn Alexander Schallenberg  
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- (2) Austria 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 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE MEASURE**

- (3) Austria considers that the COVID-19 outbreak has started to affect the real economy, in particular the event sector. 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.
- (4) Austria notes that, given the uncertainty regarding the COVID-19 pandemic, the restart of the activities in the event sector is not guaranteed and therefore undertakings active in that sector face difficulties in obtaining the necessary financing and insurance.
- (5) Austria considers that the measure, in the form of direct grants for specific events, which are granted ex ante but disbursed only in case the event covered by the measures is either cancelled entirely or is organised with significant restrictions, facilitates a partial restart of the event sector and achieves the goal of facilitating the planning of events. The measure contributes to the general aim of ensuring the restart of events and therefore viability and continuity of that sector in Austria.
- (6) Austria 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.

### **2.2. Legal basis**

- (9) The legal basis for the measure are (i) Federal Law on Special Subsidies for Small and Medium-Sized Enterprises<sup>3</sup> and (ii) Regulation of the Federal Minister of Agriculture, Regions and Tourism in support of events I<sup>4</sup>.

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

<sup>3</sup> Bundesgesetz über besondere Förderungen von kleinen und mittleren Unternehmen, BGBl. Nr. 432/1996.

<sup>4</sup> Richtlinie der Bundesministerin für Landwirtschaft, Regionen und Tourismus für einen Schutzschirm für Veranstaltungen I, not yet published in the Federal Gazette.

- (10) Austria bases its notification of the measure under section 3.1 of the Temporary Framework. In addition, aid under the measure can also be granted based on the de minimis regulation<sup>5</sup>.

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

- (11) The Federal Ministry for Agriculture, Regions and Tourism and the Austrian promotional Hotel- und Tourismusbank (“ÖHT”)<sup>6</sup> are responsible for administering the measure.
- (12) Applicants must submit a separate application for each event to be covered by the measure no later than 15 June 2021. The aid applicant must demonstrate by means of an ex ante business and finance plan, which has to be benchmarked against events of a comparable size, that the event has the prospect to be organized successfully.
- (13) After assessment of an application, the Federal Ministry for Agriculture, Regions and Tourism and the ÖHT decide on the granting of the aid on 30 June 2021 at the latest and inform the applicants accordingly. This granting decision is a legally enforceable contract. The aid will not be disbursed upon its granting. Rather, it will be paid out on request by the applicant in case the event was either cancelled entirely or was organised with significant restrictions, in each case due to an objective link to COVID-19.

### **2.4. Budget and duration of the measure**

- (14) The estimated budget of the measure is EUR 300 million.
- (15) Aid may be granted under the measure from its approval until no later than 30 June 2021. The events to be covered by the measure must take place between 1 February 2021 and 31 December 2022.

### **2.5. Beneficiaries**

- (16) The final beneficiaries of the measure are SMEs and large enterprises<sup>7</sup> which plan events taking place in Austria between 1 February 2021 and 31 December 2022. Companies active in the primary production of agricultural products, in fisheries and aquaculture, in the coal, steel, synthetic fibres and shipbuilding sectors as well as financial institutions are excluded as eligible final beneficiaries.
- (17) The number of beneficiaries is estimated at 1,000.

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<sup>5</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.

<sup>6</sup> Österreichische Hotel- und Tourismusbank GmbH (ÖHT), Parkring 12a, 1010 Wien, Österreich.

<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, 26.6.2014, p. 1.

- (18) Aid may not be granted under the measure to medium<sup>8</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>9</sup> on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>10</sup> 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<sup>11</sup> or restructuring aid.<sup>12</sup>

## **2.6. Sectoral and regional scope of the measure**

- (19) The measure is open to undertakings of all sectors planning to organise an event in Austria except undertakings active in the sectors mentioned in recital (16) above.
- (20) It applies to the whole territory of Austria.

## **2.7. Basic elements of the measure**

- (21) The measure provides aid in the form of direct grants, which are granted ex ante and disbursed ex post in case the event covered by the measure was cancelled entirely or was organised with significant restrictions. A beneficiary may apply for more than one planned event to be covered by the measure, however, the maximum aid amount is limited at EUR 800 000 per beneficiary, irrespective of the number of events for which a beneficiary is granted cover under the measure.
- (22) Events that can be covered by the measure are planned meetings and activities for the entertainment, amusement or physical and mental training of the participants. These include business-to-business and business-to-consumer events, congresses, trade fairs, occasional markets as well as cultural and sporting events.
- (23) The following events are not eligible under the measure: sports events in team sports that take place in national or international leagues and championships<sup>13</sup>; political events<sup>14</sup>, including the political advertising activities of political parties and associations as well as any other related parts of such events, provided that

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<sup>8</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, 26.6.2014, p. 1.

<sup>9</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, 26.6.2014, p. 1

<sup>10</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, 26.6.2014, p. 1

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> This also includes all events that serve to prepare for league operations (e.g. friendly matches).

<sup>14</sup> Political events in the meaning of the competence provisions of Art. 10 Para. 1 Z 7 B-VG.

the overall event is predominantly political advertising; and also school events and school-related events<sup>15</sup>.

- (24) Austrian Federal, State or local authorities<sup>16</sup> are excluded as applicants for the measure. Likewise, enterprises which, according to the "European System of Accounts" (ESA 2010), are listed by Statistics Austria as "government units" with the statistical identifier S.13 are not eligible to apply for support under the measure. However, enterprises or parts of enterprises owned by Austrian Federal, State or local authorities that are in competition with other enterprises operating on the market, such as trade fairs, may apply for support under this measure.
- (25) The direct grant, which was granted to a beneficiary ex ante on a per event basis, will be disbursed upon request by the beneficiary and upon the condition that the event covered by the measure is either cancelled entirely or can only be organised with significant restrictions, in each case due to an objective link to COVID-19. If the business and finance plan of an event did not foresee any revenues for an event, the direct grant is disbursed only if the event is cancelled entirely.
- (26) Objectively linked reasons for cancellation of an event or restrictions for an event are general or individual decisions of competent authorities, in particular if they affect a significant number of actors, participants, speakers or previously individually defined persons, who are objectively indispensable for the organisation of the event and which limit their arrival, departure or stay; this also includes with the coronavirus, COVID-19 or mandatory isolation or quarantine or (night-time) exit restrictions.
- (27) The maximum amount disbursed to a beneficiary is EUR 800 000. The actual aid amount disbursed per event is calculated as a maximum of 90% of the eligible costs of an event as pre-approved by the Federal Ministry for Agriculture, Regions and Tourism and the ÖHT on the basis of the ex-ante business and finance plan. Revenues or other income achieved despite the cancellation of the event or organisation with restrictions, insurance claims and other aid received must be deducted from the eligible costs.
- (28) For each cancelled or restricted event, the beneficiary has to submit a request for disbursement of the direct grant within eight weeks after the previously planned or actual date of the event covered by the measure. The request for disbursement of the aid for a cancelled or restricted event must be confirmed and reported by a tax adviser, auditor or chartered accountant.
- (29) The costs of Value Added Tax and operating costs of the beneficiary, such as general personnel or material costs, as well as costs below EUR 100, are not eligible.

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<sup>15</sup> In the meaning of the Federal Law on the Order of Classes and Education in Schools as regulated in the School Organisation Act (Schulunterrichtsgesetz - SchUG), BGBl No. 472/1986.

<sup>16</sup> Gebietskörperschaften

## **2.8. Cumulation**

- (30) The Austrian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>17</sup> or the General Block Exemption Regulation<sup>18</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (31) The Austrian 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.
- (32) The Austrian 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 points 22(a) of that framework, will be respected. Aid granted under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 30 June 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded. State aid granted under the measure may not be cumulated with other State aid granted for the same eligible costs.

## **2.9. Monitoring and reporting**

- (33) The Austrian 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<sup>19</sup>).

## **3. ASSESSMENT**

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

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

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<sup>17</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).

<sup>18</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>19</sup> Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

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

- (35) 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.
- (36) The measure is imputable to the State, since it is administered by the Federal Ministry for Agriculture, Regions and Tourism and the ÖHT (recital (11)), and it is based on the national legal basis as referred to in section 2.2 (recital (9)). It is financed through State resources, since it is financed by public funds.
- (37) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (38) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings planning events in Austria, excluding undertakings of sectors as listed in section 2.5 (recital (16)).
- (39) 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.
- (40) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. Austria does not contest that conclusion.

### **3.3. Compatibility**

- (41) 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.
- (42) 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*”.
- (43) 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*”.
- (44) The measure aims at compensation for the financial disadvantage for undertakings planning events in Austria due to cancellations or significant restrictions of events which are in each case linked to COVID-19 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.

- (45) The measure is one of a series of measures conceived at national level by the Austrian authorities to remedy a serious disturbance in their economy. The measure is suitable to ensure the necessary security and liquidity in the event sector so that organizers have the opportunity to plan events despite the significantly increased risk. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of direct grants”) described in section 3.1 of the Temporary Framework.
- (46) 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 direct grants (recital (8));
  - The overall nominal value of direct grants does not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges. 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 (14). The measure therefore complies with point 22(b) of the Temporary Framework;
  - Aid may not be granted under the measure to medium<sup>20</sup> and large enterprises that were already in difficulty on 31 December 2019 (see recital (18)). 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<sup>21</sup> or restructuring aid<sup>22</sup> (see recital (18)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
  - Aid will be granted under the measure no later than 30 June 2021. The measure therefore complies with point 22(d) of the Temporary Framework;
  - Aid granted to undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the

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<sup>20</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, 26.6.2014, p. 1.

<sup>21</sup> 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.

<sup>22</sup> 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.

price or quantity of products purchased from primary producers, or put on the market by such producers. The measure therefore complies with point 22(e) of the Temporary Framework.

- (47) Austria confirms that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (33)). The Austrian 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 (recital (31)).
- (48) 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