



EUROPEAN COMMISSION

Brussels 03.12.2021  
C(2021) 8906 final

PUBLIC VERSION

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**Subject: State Aid SA.100368 (2021/N) – Denmark  
COVID-19: Support to travel operators for an additional fee to cover  
the liquidity needs of the Travel Guarantee Fund**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 18 October 2021, Denmark notified aid in the form of limited amounts of aid (“support to travel operators for an additional fee to cover bankruptcies”, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).<sup>1</sup>
- (2) Denmark exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

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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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

<sup>2</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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## **2. DESCRIPTION OF THE MEASURE**

- (3) Denmark considers that the COVID-19 pandemic affects 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) Denmark confirms 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.
- (5) 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**

- (6) The measure provides aid in the form of direct grants. Under the measure, travel operators registered in the Danish Travel Guarantee Fund (“the Fund”)<sup>3</sup> are eligible to receive a direct grant to cover the additional fee to be paid to the Fund to tackle its liquidity needs due to COVID-19 related bankruptcies of certain travel operators (see recital (20) below).
- (7) The Fund is a private undertaking, fully financed by travel operators, which aims to provide refund to travellers in case of cancellation of a purchased travel package or linked travel arrangement<sup>4</sup>. The Fund is regulated by Danish law, which sets out the conditions under which travellers can claim refunds from the Fund.
- (8) All companies providing package travel in Denmark, including companies acting as intermediaries for EU/EEA tour operators, are legally obliged to register in the Fund, as a precondition for selling package travel services, unless they have taken out insolvency protection in another Member State. Travel operators outside the EU/EEA offering packages in Denmark are also required to register in the Fund.

### **2.2. Legal basis**

- (9) The legal basis for the measure is Act number 297 and Act number 250 adopted under the Danish Budget Law.

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<sup>3</sup> See Commission decision of 2 April 2020 in case SA.56856 (2020/N) – Denmark – *COVID-19: State loan for the Danish Travel Guarantee Fund*, OJ C 125. 17.4.2020, p. 14.

<sup>4</sup> In line with 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.

- (10) The legal basis for the measure entered into force on 17 June 2021, before the entry into force of the sixth amendment to the Temporary Framework on 18 November 2021.

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

- (11) The granting authority is the Danish Government. The Fund will administer the measure on behalf of the Danish Government. The Danish Competition and Consumer Authority will monitor the administration of the measure, including compliance with State aid rules.

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

- (12) The Danish authorities explain that EUR 23.33 million will be allocated to the measure from the State budget.
- (13) Travel operators can submit an application for aid under the measure until 15 December 2021. Aid under the measure may be granted as from the notification of the Commission's decision approving the measure until no later than 31 December 2021.

### **2.5. Beneficiaries**

- (14) The final beneficiaries are travel operators of all sizes (SMEs and large enterprises)<sup>5</sup> that are members of the Fund. Travel operators providing package travel and other travel services in Denmark without being members of the Fund, because they have taken out insolvency protection in another Member State, are not beneficiaries.
- (15) Financial institutions are excluded as eligible final beneficiaries.
- (16) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")<sup>6</sup> 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<sup>7</sup> or restructuring aid.<sup>8</sup>

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<sup>5</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>6</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>7</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>8</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.

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

- (17) The measure is designed to support all companies providing package travel in Denmark, including companies acting as intermediaries for EU/EEA tour operators and travel operators outside the EU/EEA, provided that they are members of the Fund. It applies to the whole territory of Denmark.

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

- (18) A traveller who has concluded a travel contract with a travel operator registered in the Fund may receive reimbursement from the Fund for the amount paid if the financial situation of the travel organiser has resulted in the termination of the travel.
- (19) The Fund originally covered situations where the travel operator is under bankruptcy, restructuring proceedings or has filed a declaration of insolvency. However, following the COVID-19 outbreak, it also covers travellers' reimbursement claims for cancelled travel packages due to the COVID-19 outbreak, irrespective of the financial situation of the package travel operator (i.e. whether the operator is bankrupt due to COVID-19 or not)<sup>9</sup>.
- (20) Because of COVID-19-related bankruptcies, the Fund's liquidity to refund travellers for bankruptcies is currently in decline. In order to tackle the liquidity needs of the Fund, an additional fee will be imposed on travel operators registered in it.
- (21) Under the measure, travel operators registered in the Fund are eligible to receive a direct grant to cover the additional fee.
- (22) The Danish authorities confirmed regarding the measure that:
- The aid takes the form of a direct grant;
  - Aid will be granted under the measure no later than 31 December 2021;
  - The grant for each beneficiary will be equal to the additional fee as imposed by the Fund on travel operators and will amount to approx. EUR 40 000. As a result, the overall nominal value of the grant shall not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges;
  - Aid is granted under the measure on the basis of a scheme with an estimated budget, as indicated in recital (12).

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<sup>9</sup> See in this regard case SA.56856 (2020/N).

## 2.8. Cumulation

- (23) The Danish authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations<sup>10</sup> or the GBER<sup>11</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (24) The Danish authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (25) The Danish authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected.

## 2.9. Monitoring and reporting

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

## 3. ASSESSMENT

### 3.1. Existence of State aid

- (27) 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

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<sup>10</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), Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

<sup>11</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, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, p. 37.

<sup>12</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.

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.

- (28) The measure is imputable to the State, since it is granted by the Danish Government (see recital (11)) and it is based on Act number 297 and Act number 250 (see recital (9)). It is financed through State resources, since it is financed by the State budget.
- (29) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on travel operators registered in the Fund, which they would not have had under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular all companies providing package travel in Denmark, provided they are members of the Fund.
- (31) 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.
- (32) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

### **3.2. Compatibility**

- (33) 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.
- (34) 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*”.
- (35) 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*”.
- (36) The compatibility of the notified measure will be assessed under section 3.1 of the Temporary Framework as in force when the measure was put into effect. In this respect, the notified measure was designed by Denmark to comply with the fifth amendment to the Temporary Framework and was put into effect before the publication of the sixth amendment to the Temporary Framework (see recital (10)). Thus the measure will be assessed in light of the fifth amendment to the Temporary Framework.

- (37) The measure aims at providing liquidity, at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (38) The measure is one of a series of measures conceived at national level by the Danish authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Danish economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of limited amounts of aid*”) described in section 3.1 of the Temporary Framework.
- (39) 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 a direct grant (recital (22)).
  - The overall nominal value of the grant shall not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (22)). 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 (12). The measure therefore complies with point 22(b) of the Temporary Framework.
  - Aid may not be granted under the measure to medium<sup>13</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>14</sup> or restructuring aid<sup>15</sup> (recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
  - Aid will be granted under the measure no later than 31 December 2021. The measure therefore complies with point 22(d) of the Temporary Framework (see recital (22)).

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<sup>13</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>14</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>15</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.

- (40) The Danish authorities confirm 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 (recital (4)).
- (41) The Danish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)). The Danish authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (23) and (24)).
- (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 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/ejojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

