

Notification under Article 107(2)(b) TFEU

Description of the exceptional occurrence and the official reaction of your authorities

In its Decision of 12 March 2020¹, the Commission concluded that the COVID-19 outbreak qualifies as an “exceptional occurrence” for the purpose of Article 107(2)(b) of the Treaty on the Functioning of the European Union. The questions below aim at clarifying the country specific situation.

- Data on the COVID-19 outbreak in your country: date of first case reported in the country; number of affected persons at the time of notification
- Data on the economic impact of the Covid-19 outbreak in your country, notably in the sectors covered by the scheme, if available
- Sequence of (main) events between the occurrence and the adoption of the scheme including any official recommendations or prohibitions decided by the competent authorities

General description of the aid scheme

- National legal basis - please provide a copy
- Objective
- Budget
- Geographical scope
- Form of aid and financing mechanism
- Beneficiaries: estimated number / sectors concerned / size of companies concerned, if relevant / exclusions from scope
- Duration:
 - Date of entry into force of the scheme
 - Confirmation of compliance with 108(3) TFEU²
 - Time period relating to the covered³ events
 - Time period in which beneficiaries can submit application for aid
- Aid intensity (under Article 107(2)(b) TFEU, aid may cover up to 100% of eligible costs)⁴

Description of the damage covered⁵

- Description of causal links:
 - Between COVID-19 outbreak and damage suffered
 - Between damage and aid

¹ Decision of 12.3.2020, SA.56685 (2020/N) - DK – Compensation scheme for cancellation of events related to COVID-19, https://ec.europa.eu/competition/state_aid/cases1/202011/285054_2139535_70_2.pdf

² No aid granted or paid out before notification and approval by Commission

³ E.g events initially set between 10 and 15 March 2020

⁴ Expressed in % of eligible costs

⁵ For the transport sector in particular, see Annex I

- Detailed description of the type of damages compensated⁶: loss of income? additional costs related to Covid-19 (please specify)?
- Methodology used for assessing the damage per beneficiary, including:
 - Documents to be submitted by beneficiaries to the granting authority
 - Certification of the documents by independent experts
 - Verification by competent authorities
 - Precise description of the damage/eligible costs of each applicant
 - If use of reference period⁷, explain why such reference period is relevant and representative

Description of the aid measure

- Granting authority and competent authority to manage the scheme, if different
- Precise description of the aid mechanism, in particular:
 - How does the mechanism ensure in practice that the aid amount does not exceed the damage suffered?
 - How does the mechanism ensure that the scheme does not compensate for difficulties encountered by each individual beneficiary that are unrelated to the Covid-19 outbreak (e.g. difficulties which the beneficiary already experienced before the outbreak)?

Commitments

- Confirm that any payment exceeding the damage suffered as a direct consequence of the COVID-19 outbreak will be recovered
- Confirm that the payment made to beneficiaries shall be net of any amount recovered by insurance, litigation, arbitration or other source for the same damage. If the aid is paid out before the insurance, the authorities will recover the insurance amount from the beneficiary
- Confirm that the benefit of the aid is excluded for any applicant who
 - is responsible for the damage suffered and/or
 - did not conduct his activities with due diligence or in compliance with applicable legislation or did not take any measure to mitigate its damages
- Confirm that aid under the scheme cannot be cumulated with other aid for the same eligible costs
- If the scheme is co-financed by the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF) or

⁶ E.g. not just “*economic losses suffered from the COVID-19 outbreak*”, but rather “*economic losses suffered from COVID-19 outbreak, encompassing: (i) compensation for tickets sold in pre-sales; (ii) compensation for tickets which could not be sold on the day of the event based on average historic data of occupation rate as a representative proxy; (iii) payment of artist fees under contractual obligations; (iv) payment of non-recoverable monies owed to contractors based on contractual obligations or third party liability*”

⁷ E.g. to assess loss of revenues at two periods in time

European Union Solidarity Fund (EUSF), please confirm that the rules applicable under these Funds will be respected

- Commit to provide a report no later than 1 year after the date of the Commission decision, specifying the amount of compensation and recoverable advances granted

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Annex I – Transport sector

With regard to the transport sector (airlines, airports, ground handling, rail and bus undertakings, maritime companies, etc.), the assessment of support to the sector will be made on a case-by-case basis.⁸ In particular, as regards more specifically the damage/eligible costs and reference period used, the Commission will need the following information and justifications when assessing notifications by Member States:

- Identification of the additional costs, of the foregone revenues (e.g. loss of traffic as a result of restrictions imposed by Member States, such as flight bans, lock-downs, or more generally, reduced demand resulting from COVID-19), as well as costs not incurred (e.g. variable costs, catering). These items should be directly related to the spread of the COVID-19;
- Definition of a reference period, when the situation was comparable to the situation that should have prevailed during the period of the spread of the COVID-19 (e.g., summer and winter season, holidays);
- Reconstitution of damages caused by comparison of the situation during the period of spread of the COVID-19 and the reference period. The reconstitution should factor in the change of important parameters (e.g., fall in price of fuels).

⁸ Commission Decision of 1.8.2011, SA.32163 – 2010/N - Slovenia – Rectification of consequences of the damage caused to air carriers and airports by earthquake activity in Iceland and the resulting volcano ash in April 2010, where the Member State compensated 60% of the lost value added.

Annex II - Language waiver

In order to speed up the processing of the notification, the below language waiver should be provided with the notification, on letter head of the relevant authorities, dated and signed

Due to the urgent need to adopt and notify a Decision in relation to the present notification relating to [brief description of the scheme subject to the notification], the [national: specify] government agrees exceptionally to waive its rights deriving from Art. 342 TFEU in conjunction with Art. 3 of the EC Regulation 1/1958 and to have the planned Decision adopted and notified pursuant to Article 297 of the Treaty in English language.