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**Subject: State Aid SA.57052 (2020/N) – Bulgaria  
COVID-19: Bulgaria financial instrument measure under section 3.1  
of the Temporary Framework for State aid measures to support the  
economy in the current COVID-19 outbreak**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 17 April 2020, Bulgaria notified aid in the form of equity (“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) The Bulgarian authorities confirm that the notification does not contain confidential information.
- (3) Bulgaria exceptionally agrees to waive its rights deriving from Article 342 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, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended on 3 April 2020, OJ C 112 I, 4.4.2020, p. 1-9.

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

Екатерина ЗАХАРИЕВА  
Министър на външните работи  
ул. „Ал. Жандов“ № 2  
1113 СОФИЯ/Sofia  
БЪЛГАРИЯ/BULGARIE

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

- (4) Bulgaria considers that the COVID-19 outbreak has started to seriously affect the economy. According to experts' opinions, approximately 65% of the total economic output in the country would be severely or majorly affected by the crisis. Even sectors, which at first sight appear to be more or less resilient or even benefiting from the situation might be negatively hit. While Bulgaria has traditionally low levels of household debt, the country has relatively high levels of non-financial corporate debt (172.4% of GDP), which could underpin a contraction in business spending, which can then lead to unemployment and a decrease in consumer spending. Therefore, Bulgaria considers that a swift and comprehensive support to maintain business spending, particularly for small and medium-sized enterprises ("SMEs"), would yield the most results to alleviate the effects from the crisis. The present measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market in particular for SMEs, to counter the impact of the outbreak and to preserve the continuity of economic activity during and after the outbreak.
- (5) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU"), as interpreted by Section 2 of the Temporary Framework.

### **2.1. The nature and form of aid**

- (6) The measure provides aid to support the liquidity of SMEs affected by the COVID-19 outbreak. The aid will be granted in the form of equity and/or quasi equity investments. All types of eligible investments are related to a provision of finance to an SME in return of partial ownership in that SME and/or include an option for acquiring equity in the SME. In particular, eligible instruments will include:
- pure equity investments : transferable shares, other securities or equivalent rights and instruments that entitle to a share in the capital of the enterprise (eventually including buy-back option), or
  - quasi equity investments: convertible debt, such as debt with linked warrants or similar derivatives, conversion options embedded in the main debt contractual framework, etc.

### **2.2. National legal basis**

- (7) The measure is based on Article 5 of "The Management of Resources from the European Structural and Investment Funds Act". The specific conditions of the measure are included in a guidelines document entitled "State aid scheme for equity/quasi-equity support of SMEs facing a shortage or unavailability of liquidity", submitted to the Commission on 17 April 2020. Subject to the approval of the measure by the Commission, the requirements foreseen in the abovementioned guidelines will be included in the public procurement agreements concluded by the granting authority with the individual Funds set up under its prerogatives.

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

- (8) “Fund Manager of Financial Instruments in Bulgaria (“FMFIB”) is responsible for administering the measure. FMFIB is established by Government Decree No 3 of 2015 as a company wholly owned by the State with the task to manage the funds within the meaning of Article 2 of Regulation (EU) 1301/2013<sup>3</sup> (“CPR Regulation”). FMFIB implements financial instruments supported by the European Structural and Investment Funds under four operational programs, including OP “Innovation and Competitiveness”. Part of the investment strategy implemented under the latter are the Equity/Venture capital funds that will be used to finance the measure.

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

- (9) The estimated budget under the measure is EUR 150 million. The scheme is co-financed by the European Regional Development Fund (“ERDF”).
- (10) Aid may be granted under the measure as from its approval until 31 December 2020 at the latest.

### **2.5. Beneficiaries**

- (11) The final beneficiaries of the measure are undertakings which on the date of the initial investment:
- fall within the category of micro, small or medium-sized enterprises<sup>4</sup>;
  - are not listed on the official list of a stock exchange or a regulated market;
  - have their permanent establishment or commercial registration in Bulgaria.
- (12) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>5</sup> on 31 December 2019.

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

- (13) The measure is open to all sectors, except for those explicitly excluded from the CPR Regulation. Primary production of agricultural products; fishery and aquaculture; illegal activities; production of and trade in weapons and

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<sup>3</sup> Regulation (EU) No 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006

<sup>4</sup> As defined in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (C(2003) 1422), OJ L 124, 20.5.2003, p. 36–41

<sup>5</sup> As defined in Article 2(18) of the 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, Article 2(14) of the Commission Regulation (EU) 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, OJ L 193 of 1.7.2014, p.1.

ammunitions; casinos; human cloning; genetically modified organisms; financial and real estate services where they represent general economic activity of the undertaking except for the fintech companies are also excluded.

- (14) It applies to the whole territory of Bulgaria.

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

- (15) The scheme will be implemented through the existing Equity/Venture capital funds, set up within the general mandate of the FMFIB as well as two new funds, which are to be established in the next two months (“the Funds”). Part of the FMFIB’ financial commitment within each of the Funds will be dedicated to separate sub-funds with segregated assets, rights and obligations. These sub-funds will be solely used for granting aid under the present measure.
- (16) Eligible investments under the scheme are investments supporting SMEs facing a shortage or unavailability of liquidity, which also comply with the requirements set forth in the CPR Regulation<sup>6</sup>. The total nominal value of the investment will not exceed the overall cap of EUR 800 000 per undertaking and will be granted no later than 31 December 2020.
- (17) Undertakings active in the primary production of agricultural products or active in the fishery and aquaculture as defined in Commission Regulation (EU) No 717/2014 are explicitly excluded from the measure.
- (18) In case of undertakings active in the processing and marketing of agricultural products the investment is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

### **2.8. Cumulation**

- (19) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.
- (20) Aid granted under the measure may be cumulated with “*de minimis*” support, as well as with other block exempted schemes and aid under other sections of the Temporary Framework provided the cumulation rules in those Regulations are respected. The Bulgarian authorities confirm that the respective cumulation rules, as set out in paragraph 20 of the Temporary Framework, will be respected.

### **2.9. Monitoring and reporting**

- (21) The Bulgarian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission;

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<sup>6</sup> More specifically, Articles 37(4, 7-9), and 70 of the CPR Regulation, as well as supporting investments complying with Article 4(1) of Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014

detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

### **3. ASSESSMENT**

#### **3.1. Legality of the measure**

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

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

- (23) 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.
- (24) The measure is imputable to the State, since it is administered by the FMFIB and it is based on the legal acts specified in recital (8). It is financed through State resources, since it is co-financed by the ERDF, and the national authorities have discretion about the use of this financing.
- (25) The measure confers an advantage on its beneficiaries in the form of equity and quasi equity investments. The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.
- (26) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular SMEs active in Bulgaria.
- (27) 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.
- (28) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Bulgarian authorities do not contest that conclusion.

#### **3.3. Compatibility**

- (29) 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.
- (30) 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*”.
- (31) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (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”.*

- (32) The measure aims at supporting SMEs facing a shortage or unavailability of liquidity at a time when the outbreak is affecting the wider economy and leading to severe disturbances of the economy of Member States.
- (33) The measure is one of a series of measures conceived at national level by the Bulgarian authorities to remedy a serious disturbance of the Bulgarian economy. It aims at supporting undertakings affected by the economic repercussions of the COVID-19 in Bulgaria. The measure is of a scale that can be reasonably anticipated to produce effects across the entire Bulgarian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid described in Section 3.1 of the Temporary Framework.
- (34) 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:
- (a) The total nominal value of the equity does not exceed EUR 800 000 per undertaking (recital (16)); the condition of paragraph 22(a) of the Temporary Framework is therefore considered to be met;
  - (b) The aid takes the form of equity and quasi equity (recital (6)), and therefore complies with paragraph 22(a) of the Temporary Framework;
  - (c) The estimated budget of the scheme is EUR 150 million (recital (9)). Therefore, the condition of paragraph 22(b) of the Temporary Framework is considered to be met;
  - (d) In compliance with paragraph 22(c) of the Temporary Framework, the aid will only be granted to undertakings which were not already in difficulty on 31 December 2019 (recital (12));
  - (e) The aid will be granted no later than 31 December 2020 (recital (10)); hence the condition set out in paragraph 22(d) of the Temporary Framework is met;
  - (f) Aid granted to beneficiaries active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned (recital (18)); therefore, the condition of paragraph 22(e) of the Temporary Framework is considered to be met.
- (35) The Bulgarian authorities committed to comply with all the monitoring and reporting provisions laid down in section 4 of the Temporary Framework (recital (21)). In accordance with paragraph 48 of the Temporary Framework, the Commission may request additional information regarding the aid granted, to verify whether the conditions laid down in this decision have been met.
- (36) Aid granted under section 3.1 of the Temporary Framework may be cumulated with aid under other sections of the Temporary Framework within the limits of the specific provisions of the other sections of the Temporary Framework and

with aid granted under the “*de minimis*” Regulation or with other forms of Union financing provided that the cumulation rules in the relevant regulations and guidelines are respected in compliance with paragraph 20 of the Temporary Framework (recital (20)).

#### **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.

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

**CERTIFIED COPY**  
For the Secretary-General,

**Jordi AYET PUIGARNAU**  
Director of the Registry  
**EUROPEAN COMMISSION**