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Subject: State Aid SA.57283 (2020/N) – Bulgaria
State aid in the form of direct grants under Operational Programme Innovation and Competitiveness 2014-2020 to support micro and small enterprises to overcome the economic impact of the COVID-19 pandemic outbreak

Excellency,

1. PROCEDURE

- (1) By electronic notification of 7 May 2020, Bulgaria notified aid in the form of grants under Operational Programme Innovation and Competitiveness 2014-2020 in favour of micro and small enterprises (“the measure”) under article 107(3)(b) of the Treaty on the Functioning of the European Union, as interpreted by the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹
- (2) The Bulgarian authorities confirm that the notification does not contain confidential information.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak as adopted on 19 March 2020 (C(2020) 1863), OJ C 91I, 20.3.2020, p. 1-9, as amended on 3 April 2020, OJ C112 I, 4.4.2020, p.1-9 and C(2020) 3156 as adopted on 3 April 2020 and 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

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- (3) Bulgaria exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) Following the outbreak of the COVID-19 in Bulgaria, the Bulgarian authorities have adopted since 13 March 2020³ several administrative measures to prevent the spread of the virus such as travel restrictions, cancellation of mass gathering events, closure of schools and universities and administrative population containment measures. Bulgaria considers that these preventive measures have started to affect the real economy and may lead to further suspension of production and services, and ultimately to financial difficulties for individual companies.
- (5) Taking that into account, the Bulgarian authorities consider that there is a need to introduce specific solutions aimed at counteracting the negative economic effects of the COVID-19 outbreak, in particular, the loss of liquidity of undertakings and lay-offs⁴, and at ensuring that the disruptions caused by the COVID-19 outbreak do not undermine the viability of the undertakings.
- (6) The Bulgarian authorities consider that this risk affects particularly SMEs, which constitute 99% of the registered companies in the country and provide 75.4% of the employment⁵. Consequently, as the main and driving force for the development of competitive and efficient production and guaranteeing stable economic growth, as well as sustainable employment, the continuity of the activities of these companies in particular has to be preserved.
- (7) The compatibility assessment of the notified measure is based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Section 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (8) The measure provides aid only in the form of a direct grant.

2.2. National legal basis

- (9) The legal basis for the measure is the Act on the measures and actions during the State of emergency declared by a Resolution of the National Assembly of 13 March 2020 and the Grant Scheme under Operational Programme Innovation and

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

³ The Resolution of the National Assembly of 13 March 2020 declaring a State of emergency within the territory of the Republic of Bulgaria; Act on measures and actions during the State of emergency of 24 March 2020 No. 28/24 March 2020.

⁴ Particularly in the hotels and restaurants, trade and manufacturing sector, according to the latest report of the Bulgarian Employment Agency.

⁵ According to the Analysis of the development of the SMEs in Bulgaria in 2018.

Competitiveness 2014-2020 “Supporting micro and small enterprises to overcome the economic impact of the COVID-19 pandemic and implementing provisions”.

2.3. Administration of the measure

- (10) Aid will be granted under the mechanism of national operational programmes 2014-2020.
- (11) The Bulgarian authorities confirmed that the granting authority and competent authority to manage the measure is the Ministry of Economy, Directorate General for "European funds for competitiveness".

2.4. Budget and duration of the measure

- (12) The budget of the measure is estimated at EUR 88 million (BGN 173 million)⁶, with EUR 13 million national budget and EUR 75 million ESIF co-funding resources, under the Bulgarian Competitiveness and Innovation operational programme 2014-2020.
- (13) Aid may be granted under the measure as from its approval by the Commission until no later than 31 December 2020.

2.5. Beneficiaries

- (14) The beneficiaries of the measure are undertakings registered under the Commercial Act or the Cooperatives Act, fulfilling the following conditions:
- (15) They are micro and small undertakings⁷, registered before 1 July 2019 and economically active in 2019. They have recorded a decrease of at least 20% in turnover for April 2020, compared to the average monthly turnover in 2019.
- (16) The Bulgarian authorities estimate the number of beneficiaries around 17,300 micro and small undertakings.
- (17) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation⁸ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (18) The measure is open to all sectors but agriculture, fisheries, forestry and aquaculture, processing and/or marketing of forest products and agricultural products. The financial sector is also excluded. It applies within the whole territory of Bulgaria.

⁶ Exchange rate 7 May 2020 EUR 1= 1.96 BGN.

⁷ As defined in the Commission Recommendation of 6 May 2003 on the definition of micro, small and medium-sized enterprises OJ L 124, 20.5.2003, p. 36.

⁸ 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.

2.7. Basic elements of the measure

- (19) Aid under the measure will be granted in the form of a grant.
- (20) The minimum amount of grant per undertaking is EUR 1 530 (BGN 3 000) and the maximum amounts to EUR 5 102 (BGN 10 000). The amount of the grant may however not exceed 10% of the net sales revenue part of the income statement for the year 2019.
- (21) The Bulgarian authorities confirm therefore that the overall maximum amount of aid per undertaking - the equivalent of EUR 800 000 (gross, i.e. before any deduction of tax or other charge) is respected.
- (22) The scheme being co-financed by European Structural and Investment Funds (ESIF), the Bulgarian authorities confirm that the rules applicable under these Funds shall be respected.

2.8. Cumulation

- (23) 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.
- (24) Bulgarian authorities confirmed that aid under the notified measure may be cumulated with de minimis aid⁹ and/or with aid under the General Block Exemption Regulation, provided the provisions and cumulation rules of those Regulations are respected.
- (25) The Bulgarian 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 of EUR 800 000 per undertaking, as set out in points 22(a) of that framework, shall be respected.
- (26) The Bulgarian authorities confirm that if aids granted under the different sections of the Temporary Framework are cumulated, the relevant provisions of Temporary Framework will be respected.

2.9. Monitoring and reporting

- (27) The Bulgarian 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 granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting¹⁰).

⁹ Granted in accordance with the provisions of Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Art. 107 and 108 of the Treaty on the Functioning of the European Union for de minimis aid.

¹⁰ Referring to information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 and of Annex III of the Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (28) 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

- (29) 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.
- (30) The measure is imputable to the State, since it is administered by national authorities and based on Act of the National Assembly. It is financed through State resources, since it is financed by public funds and by European Regional Development Fund (ERDF) that are managed by the national authorities that have discretion on the use of those funds (recitals (9) and (12)).
- (31) The measure confers an advantage on its beneficiaries in the form of a direct grant. The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions (see recital (19)).
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular small and micro undertakings which are affected by the economic repercussions of the COVID-19 and in certain sectors only (recitals (15) and (18)).
- (33) 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.
- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (35) 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.
- (36) 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*”.
- (37) 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”.

- (38) The measure is one of a series of measures conceived at national level by the Bulgarian authorities to remedy a serious disturbance in their economy. The measure is of a scale, which can be reasonably anticipated to produce effects across the entire Bulgarian economy. Furthermore, the measure has been designed to meet the requirements of 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.
- (a) The overall nominal value of the grant does not exceed the equivalent of EUR 800 000 per undertaking. All figures used are gross, that is, before deduction of tax or other charge (recitals (20) and (21)). The conditions of points 22(a) of the Temporary Framework are therefore considered to be met;
 - (b) The aid takes the form of a direct grant (recital (19)), and therefore complies with point 22(a) of the Temporary Framework;
 - (c) The aid is granted based on a scheme with an estimated budget of EUR 88 million (recital (12)). Therefore, the condition of point 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 (17));
 - (e) The aid will be granted no later than 31 December 2020 (recital (13)); hence the condition set out in point 22(d) of the Temporary Framework is met;
 - (f) The Bulgarian authorities committed to comply with all the monitoring and reporting provisions laid down in section 4 of the Temporary Framework (recital (27)).
- (40) 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 these other sections and with aid granted under the “de minimis” Regulation or under GBER provided that the cumulation rules in the relevant regulations and guidelines are respected (recitals (23 to 26)).

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