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**Subject: State Aid SA.57795 (2020/N) – Bulgaria
State aid in the form of direct grants under Operational Programme
Innovation and Competitiveness 2014-2020 to support medium-sized
enterprises to overcome the economic impact of the COVID-19
pandemic outbreak**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 25 June 2020, Bulgaria notified aid in the form of grants under Operational Programme “*Innovation and Competitiveness*” 2014-2020 (“OPIC”) in favour of medium-sized enterprises (“the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹
- (2) Bulgaria 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 1/1958,² and to have this Decision adopted and notified in English.

¹ 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 by the 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. 1-9 and the Communication from the Commission - Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak 2020/C 164/03, OJ C 164, 13.5.2020, p. 3-15.

² 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) Bulgaria considers that the COVID-19 outbreak has started to affect 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 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) 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.
- (5) The Bulgarian authorities consider that the risks arising from the crisis affect particularly SMEs, which constitute 99% of the registered companies in the country and provide 75.4% of the employment⁴. They are the main and driving force for the development of competitive and efficient production and guaranteeing stable economic growth, as well as sustainable employment. Consequently, the continuity of the activities of these companies in particular has to be preserved.
- (6) The notified measure constitutes, to a large extent, an extension to a new group of beneficiaries (medium-sized enterprises) of an existing grant scheme BG16RFOP002-2.073 *"Supporting micro and small enterprises to overcome the economic impact of the COVID-19 pandemic"* under OPIC 2014-2020, approved as compatible State aid by Commission decision C(2020) 3259 final of 13 May 2020 (case SA.57283).
- (7) The compatibility assessment of the notified measure is based on Article 107(3)(b) TFEU, as interpreted by 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. National legal basis

- (9) The legal basis for the measure is (i) the grant scheme *"Supporting medium-sized enterprises to overcome the economic impact of the COVID-19 pandemic"*⁵ under Operational Programme *"Innovation and Competitiveness"* 2014-2020, (ii) the Act on the measures and actions during the State of emergency declared by a Resolution of the National Assembly of 13 March 2020 (Article 21) and (iii) the

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

⁵ Grant scheme BG16RFOP002-2.077. Applicants apply on the basis of a document 'Guidelines for applicants' which lays down all the eligibility conditions and criteria.

Law for the management of European structural funds and investment funds (Chapter 3).

2.3. Administration of the measure

- (10) Aid will be granted under the mechanism of national operational programme “*Innovation and Competitiveness*” 2014-2020. The Ministry of Economy, Directorate General for “European funds for competitiveness”, is responsible for administering the measure.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is EUR 102 million (BGN 200 million)⁶, with EUR 15 million national budget and EUR 87 million ERDF co-funding resources.
- (12) Aid may be granted under the measure as from its approval by the Commission until no later than 31 December 2020.

2.5. Beneficiaries

- (13) The beneficiaries of the measure are medium-sized undertakings⁷ economically active for at least two completed financial years (2018 and 2019), which have recorded a decrease of at least 20% in turnover for one calendar month in the period from 1 February 2020 to the month preceding the month of application, compared to the turnover for the same month in 2019.
- (14) The Bulgarian authorities estimate the number of beneficiaries around 1 560 undertakings.
- (15) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁸ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (16) The measure is open to all sectors except agriculture (primary agriculture and processing)⁹, forestry, fisheries and aquaculture, production of food and beverages, processing and/or marketing of forest products. The financial sector and gambling activities are also excluded. The measure applies to the whole territory of Bulgaria.

⁶ Exchange rate EUR 1= 1.96 BGN.

⁷ As defined in Article 2 of Annex 1 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. 1–78.

⁸ 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. See Article 2 (18) of that Regulation.

⁹ Marketing of agricultural products is eligible and the Bulgarian authorities committed that, where the beneficiaries are undertakings active in the marketing of agricultural products, the aid is not 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.

2.7. Basic elements of the measure

- (17) Aid under the measure will be granted in the form of a grant. The grant can cover only eligible costs needed to overcome the funding shortage or lack of liquidity resulting from the COVID-19 outbreak (such as remuneration, raw materials needed in the production process).
- (18) The minimum amount of grant per undertaking is EUR 15 339 (BGN 30 000) and the maximum amounts to EUR 76 695 (BGN 150 000). In addition, the amount of the grant may not exceed 3% of the 2019 turnover.
- (19) The Bulgarian authorities confirm 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.
- (20) The scheme being co-financed by the European Regional Development Fund (ERDF), the Bulgarian authorities confirm that the relevant rules applicable to European Structural and Investment Funds (ESIF) and more specifically the rules applicable under ERDF shall be respected.

2.8. Cumulation

- (21) 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 ESIF.
- (22) The Bulgarian authorities explain that aid under the notified measure cannot be cumulated with *de minimis* aid¹⁰ and/or with aid under the GBER in relation to the same eligible costs.
- (23) The Bulgarian authorities explain that aid granted under the scheme cannot be cumulated in relation to the same eligible costs with aid under different sections of the Temporary Framework. They also confirm that, if an undertaking receives aid under different sections of the Temporary Framework, the relevant provisions of the Temporary Framework will be respected.
- (24) The Bulgarian authorities also 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, shall be respected.

2.9. Monitoring and reporting

- (25) 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

¹⁰ 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.

granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting¹¹).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (26) 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

- (27) For a measure to be categorised as State 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.
- (28) The measure is imputable to the State, since it is administered by national authorities and based on acts of the National Assembly as implemented by the public administration (recital (9)). It is financed through State resources, since it is financed by public funds, in particular by the ERDF that is managed by the national authorities that have discretion on the use of those funds (recitals (11) and (20)).
- (29) The measure confers an advantage on its beneficiaries in the form of a direct grant (recital (8)). The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular certain medium-sized undertakings which are affected by the economic repercussions of the COVID-19 and in certain sectors only (see recitals (13) and (16)).
- (31) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries that are active in sectors that are open to competition. 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 State aid within the meaning of Article 107(1) TFEU. The Bulgarian authorities do not contest that conclusion.

3.3. 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.

¹¹ 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.

- (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 (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 measure aims at facilitating the access of undertakings to external finance and easing undertakings’ liquidity constraints at a time when the normal functioning of credit 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.
- (37) 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 importance of the measure to ease liquidity constraints and to preserve economic continuity and employment is widely accepted by economic commentators and 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 a specific category of aid (“*Limited amounts of aid*”) described in Section 3.1 of the Temporary Framework.
- (38) 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 overall nominal value of the grant shall not exceed the equivalent of EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (see recital (19)). The aid takes the form of a direct grant (see recital (17)). The conditions of point 22(a) of the Temporary Framework are therefore met;
 - (b) Aid is granted on the basis of a scheme with an estimated budget of EUR 80 million (see recital (11)). The measure therefore complies with point 22(b) of the Temporary Framework;
 - (c) Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019 (see recital (15)). The measure therefore complies with point 22(c) of the Temporary Framework;
 - (d) Aid will be granted no later than 31 December 2020 (see recital (12)); hence the condition set out in point 22(d) of the Temporary Framework is met;
 - (e) The Bulgarian authorities confirm that, where the beneficiaries are undertakings active in the marketing of agricultural products, the aid is 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 (see

footnote 9). The measure therefore complies with point 22(e) of the Temporary Framework.

- (39) The Commission takes into consideration that the Bulgarian authorities have confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (25)). They 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 (see recitals (21) to (24)).
- (40) The Commission takes into consideration that the Bulgarian authorities also confirmed that the relevant ESIF rules and in particular the ERDF-specific rules will be respected (recital (20)).
- (41) 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/eojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President